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**Preliminary Examination, 12-8-15**

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STATE OF MICHIGAN  
  
IN THE CITY OF DETROIT FOR THE COUNTY OF WAYNE  
  
THE PEOPLE OF THE STATE OF  
MICHIGAN  
  
Plaintiff,  
  
vs.  
  
LAROME JEMISON,  
  
Defendant.  
  
\_\_\_\_\_/

36th Dist. No: 15-62018  
Circuit Court No: 15-010216

PRELIMINARY EXAMINATION  
  
BEFORE JUDGE SHANNON A. HOLMES  
  
Detroit, Michigan - Tuesday, December 8, 2015

APPEARANCES:

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WITNESSES: DEFENDANT

None.

<u>EXHIBITS:</u>	<u>IDENTIFIED</u>	<u>ADMITTED</u>
PEX#1-Lab report	04	04
PEX#2-Lab report	04	04



1 Detroit, Michigan

2 Tuesday, December 8, 2015 - 9:36

3 THE CLERK OF THE COURT: Case Number:

4 15-62018, The People of the State of Michigan versus  
5 Arthur Larome Jemison.

6 Defendant is charged with Count 1, Criminal  
7 sexual conduct, first degree, multiple variables.

8 The defendant is an habitual offender, second  
9 offense notice and is present for exam.

10 THE COURT: Your appearance.

11 MS. LOZEN: Good morning, your Honor.

12 Lisa Lozen for the People.

13 MR. GLENN: Luther Glenn for Mr. Jemison.

14 THE COURT: Thank you.

15 Good morning, Mr. Jemison.

16 DEFENDANT JEMISON: Good morning.

17 MS. LOZEN: Judge, this is the date and time  
18 set for a preliminary examination. We are ready to  
19 proceed.

I would ask for a mutual  
20 sequestration order and an exception for our  
21 officer-in-charge, Detective Sabo who is present.

22 THE COURT: Mr. Glenn.

23 MR. GLENN: No objection.

24 I would also ask for a mutual order of  
25 sequestration.

1 THE COURT: Are there any parties that need to  
2 be excused from the courtroom at this time?

3 MS. LOZEN: No, Judge.

4 MR. GLENN: I'm not aware of any.

5 THE COURT: Any other preliminary matters?

6 MS. LOZEN: Judge, I have shown defense  
7 counsel what I've marked as People's Exhibit Number 1  
8 and 2. They are lab reports from the Michigan State  
9 Police.

10 At this time, I believe he's not objecting to  
11 their admission.

12 MR. GLENN: For exam purposes only.

13 THE COURT: For exam purposes only, they will  
14 be admitted.

15 MS. LOZEN: Thank you, Judge. If I could read  
16 the relevant parts.

17 THE COURT: You may.

18 MS. LOZEN: The lab reports they were marked  
19 in opposite order, so I'll just read from them in  
20 chronological order, but Exhibit 2 is marked as record  
21 one and Exhibit 1 is marked as record 2. So I will read  
22 from them.

23 THE COURT: Thank you.

24 MS. LOZEN: Record 1 is laboratory number KIT  
25 14-20030. It's a Michigan State Police Forensic Science

1 Division Laboratory Report which indicates that the  
2 agency number is E 28034496 and is dated on January 26,  
3 2015.

4 The victim is listed as Talisha Sams and the  
5 agency is Detroit Police Department and it is offered by  
6 Captain T. Maggert, who is a forensic scientist with the  
7 biology unit and it also contains a Sorenson Forensic  
8 Report, which is also authored Derek Cutler,  
9 C-u-t-l-e-r, who is a forensic DNA analyst 1 and remarks  
10 are that the majority -- I'm sorry. I will start over.

11 The major DNA types obtained from KIT  
12 14-20030-1-SF, which are vaginal swabs, sperm fractions  
13 that have been entered into the case work database of  
14 combined DNA indexed system, which is CODIS and then  
15 record 2, which has the same laboratory number, KIT:  
16 14-20030, same agency number, same victim, Ms. Felicia  
17 Sams.

18 It's dated February 26, 2015. It is authored  
19 by Joshua Strong, who is a forensic scientist with the  
20 CODIS section of the Michigan State Police and it  
21 indicates that a search of the combined DNA indexed  
22 System CODIS database, resulted in an association  
23 between item KIT 14-20030-1-SF, which are vaginal swabs  
24 sperm fractions and DNA data specimen number MIAB 34948  
25 and it indicates that the specimen named is Arthur

1 Jemison. The specimen SID number is 1763195E.

2 And the date of birth is October 23, 1974

3 Again, that's for preliminary exam purposes.

4 THE COURT: Thank you.

5 Mr. Glenn, is that correct?

6 MR. GLENN: Yes, your Honor. I would add this  
7 little caveat. This is a preliminary CODIS examination.  
8 It is only for investigative matters.

9 There should be a new buccal swab from my  
10 client actually compared to whatever was available in  
11 the rape kit.

12 So I'm assuming that they don't have a new DNA  
13 test. If they do have it, then I would want that  
14 mentioned as well.

15 But I'm assuming that they don't have it,  
16 because they didn't give it to me.

17 MS. LOZEN: It has not been produced yet. The  
18 buccal swabs from the defendant were obtained by a  
19 search warrant and it was taken to the Michigan State  
20 Police crime lab. They prioritize that once they give  
21 them a trial date. So it has not been produced yet.

22 THE COURT: But certainly it will be produced.

23 MR. GLENN: Yes, and I wanted it on the record  
24 that it hasn't been produced and they will get it to me  
25 as soon as they have it.

1 MS. LOZEN: Absolutely.

2 THE COURT: Thank you.

3 Anything else, Ms. Lozen?

4 MS. LOZEN: The People have one witness. We  
5 will call Ms. Talisha Sams Dowe.

6 THE COURT: Can you spell the last name for  
7 me?

8 MS. LOZEN: D-o-w-e.

9 THE CLERK OF THE COURT: Please raise your  
10 right hand.

11 Do you swear or affirm that the testimony you  
12 are about to give will be the truth, and nothing but the  
13 truth, so help you God?

14 THE WITNESS: Yes.

15 THE CLERK OF THE COURT: You can have a seat  
16 and pull the microphone close to your mouth.

17 THE COURT: You may proceed.

18 MS. LOZEN: Thank you, Judge.

19 TALISHA DOWE

20 WITNESS WAS SWORN AT 9:42 A.M. AND TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MS. LOZEN:

23 Q Good morning.

24 A Good morning.

25 Q Would you state your name for the record?

1 A Talisha Dowe.

2 Q At some point in 1996, were you known as Talisha Sams?

3 A Yes.

4 Q And why did you change your name?

5 A I got married.

6 Q Thank you.

7 And it's now D-o-w-e?

8 A Yes.

9 Q Thank you.

10 I would like to bring you back to the date of  
11 September 14, 1996. Do you recall that day?

12 A Yes.

13 Q And on September 14th of 1996, were you working at any  
14 particular location?

15 A Outcast.

16 Q And what is that?

17 A After hour motorcycle club.

18 Q And when you were working there, did you meet an  
19 individual?

20 A Yes.

21 Q Did that individual give you a name?

22 A Yes.

23 Q What was that name?

24 A Delano.

25 Q And this individual named Delano, did you and him have a

1 conversation?

2 A Yes.

3 Q What was that conversation about?

4 A He asked me after the club if I wanted to hang out and  
5 have breakfast.

6 Q Did you and him agree to this?

7 A Yes.

8 Q How did you go to have breakfast?

9 A We left the club together.

10 Q Did he have a car?

11 A Yes.

12 Q Can you describe this car for me?

13 A It was an '88 Maroon Monte Carlo with gold rims on it,  
14 detachable steering wheel.

15 Q Did you and him go and have breakfast?

16 A No. We ended having consensual sex.

17 Q You and Mr. Delano?

18 A Yes.

19 Q And after you and him had consensual sex, what happens  
20 next?

21 A He said he was going to drop me off, but he had to make  
22 a stop.

23 Q And this stop, was it at Weyher and McClellan in the  
24 City of Detroit?

25 A Yes.

1 Q And again this is in the City of Detroit?

2 A Yes.

3 Q And you're still on September 14, 1996?

4 A Yes.

5 Q And does Mr. Delano drive the car to this address?

6 A Yes.

7 Q Once you arrive at this location, what happens?

8 A He got out the car. The car was still running. I was  
9 sitting in there and he had to be in there for about 30,  
10 40 minutes.

11 Q Where did he go?

12 A He went into the home.

13 Q Is this a residential area?

14 A Yes.

15 Q And so you stayed out in the car and the car was left  
16 running?

17 A Yes.

18 Q Where were the keys?

19 A In the ignition.

20 Q Where were you sitting?

21 A In the passenger seat.

22 Q You indicated that Delano goes into the house for about  
23 30 to 40 minutes?

24 A Yes.

25 Q Does he eventually come back out?



1 A Yes.

2 Q What happens?

3 A He gets in the car and we drive to the last house on the  
4 block, which happens to be next to the alley and he was  
5 blocking the alley. So he mumbled something to himself.  
6 He backed up and then he got out the car and he went to  
7 this last house on the block.

8 Q Where did he park the car at?

9 A Right above the alley, right before the alley.

10 Q And this is still on Weyher and McClellan or Weyher  
11 Street?

12 A Yes.

13 Q Once he parked the car right before the alley, is it in  
14 the street or in the driveway?

15 A It's in the street. There's like no driveway. So it's  
16 right in front of the house.

17 Q Are you still in the passenger seat?

18 A Yes.

19 Q Is the car still left running?

20 A Yes.

21 Q Where does Delano go?

22 A He got up on the porch and as he was going in, a  
23 gentlemen was coming out the alley.

24 Q A gentleman comes out of the alley. Had you ever seen  
25 this gentlemen who come out of the alley before?

1 A No.

2 Q Where is Delano at this point?

3 A In the house.

4 Q When this individual comes out of the alley, are you  
5 able to see this person?

6 A Yes.

7 Q Are you able to describe this person?

8 A Yes.

9 Q How would you describe him?

10 A About five-eleven. He had on a baseball cap, striped  
11 shirt, tan jacket, blue jeans, darker skin.

12 Q Were you able to look at their face?

13 A It was kind of shadowy because of the baseball cap.

14 Q What does this person do?

15 A At first, I thought they were just going to walk passed  
16 the car. And as they was walking passed the car, he  
17 kind of touched it with one finger and I was like, okay  
18 that's kind of weird.

19 But then he went like a little bit passed it  
20 and then he hurried up and jumped back and snatched the  
21 door open and hopped in the car.

22 Q What door does he open?

23 A The driver's side.

24 Q Did he get in the driver's seat?

25 A Yes.

1 Q And the car was still left running?

2 A Yes.

3 Q From the earlier individual?

4 A Yes.

5 Q What do you think is going on?

6 A I was scared. I didn't know what to expect and then he  
7 put the gun between my legs and threatened to shoot me  
8 and demanded my money.

9 Q Where did the gun come from?

10 A I don't know where it was. It was in his hand. I don't  
11 know where he pulled it from, but it was in his hand.

12 Q Can you describe it for me?

13 A It was a nine millimeter, chrome silver. I begged him  
14 don't hurt me.

15 Q So you indicated that he pointed it at you?

16 A Yes.

17 Q What part of your body did he point it at?

18 A He stuck it between my legs.

19 Q And you indicated he made a comment to you?

20 A He demanded my money. All of it.

21 Q And what did you do?

22 A I begged him, no, please don't and he started to drive  
23 off.

24 Q And so he was able to put the car in gear and drive off?

25 A Yes.

1 Q Do you know what direction he drove?

2 A We went towards a street called Belvidere.

3 Q Is that still in the City of Detroit?

4 A Yes.

5 Q What happens when he gets to Belvidere?

6 A He pulled over. He pulled out his penis and he made me  
7 perform oral sex on him and then he made me take my  
8 clothes off and then I laid down and he got on top of me  
9 and took all my money and jewelry and made me put it on  
10 the floor and told me to get out of the car.

11 Q Do you need a moment?

12 A I'm alright.

13 Q You indicated you got to Belvidere. Did he park the car  
14 when you got the Belvidere?

15 A Yes.

16 Q Is the car still running?

17 A Yes.

18 Q And you indicated that he said something to you?

19 A He demanded my money and my jewelry and he demanded that  
20 I put everything on the floor of the car and he told me  
21 to get out.

22 Q You indicated your jewelry. Can you describe the  
23 jewelry?

24 A I had a herringbone necklace and some rings. I can't  
25 remember how many rings it was.

1 Q What about your money? How much money did you have?

2 A \$60.

3 Q Now you indicated that while you're in the car, he made  
4 you perform a sex act. Can you describe that for us?

5 A He made me suck his penis.

6 Q Did his penis go into your mouth?

7 A Yes.

8 Q Did you want him to do that?

9 A No.

10 Q When you are -- where is he sitting at when this  
11 happens?

12 A In the driver's seat.

13 Q And where are you at?

14 A In the passenger seat.

15 Q Did he -- what happened to your clothing?

16 A He made me take my pants off.

17 Q Once your pants are off, what happens?

18 A He had me lay down and he got on top of me.

19 Q When he was on top of you, can you describe what part of  
20 the car you're in?

21 A I'm still in the front seat. By this being an older  
22 model car, the seat was just one long seat. It wasn't  
23 separated.

24 Q So there was room to move around in the car?

25 A (No verbal response)

1 Q Is that a yes?

2 A Yes.

3 Q And when you take your clothing off, what happens then  
4 when you're laying in the car?

5 A He got on top of me.

6 Q When he got on top of you, what happened?

7 A He put his penis in and he raped me.

8 Q Did he put his penis into your vagina?

9 A Yes.

10 Q Did you want him to do that?

11 A No.

12 MS. LOZEN: And, Judge, I believe he's only  
13 been charged with one count of criminal sexual conduct.  
14 Based on the testimony, I would add a count of criminal  
15 sexual conduct for fellatio.

16 BY MS. LOZEN:

17 Q You indicated that you did not want him to put his penis  
18 in your vagina?

19 A No.

20 Q So then you indicated that -- had you already taken your  
21 jewelry and your money off?

22 A Once he got off of me, he was like take off the jewelry  
23 and place everything on the floor.

24 Q Where is the gun at this point?

25 A Still in his hand.

1 Q Where was it at during the entire transaction?

2 A In his hand.

3 Q He held onto it the entire time?

4 A Yes.

5 Q Then you said he told you to take off your jewelry and  
6 money, then what happens next?

7 A He told me to lay it on the floor and he told me to get  
8 out the car.

9 Q Again, is the car still parked on Belvidere?

10 A Yes.

11 Q What happens -- did you get out of the car?

12 A Yes.

13 Q And then what happens?

14 A I started walking.

15 Q And do you have your clothing on at this point?

16 A Yes.

17 Q When were you able to put your clothing back on?

18 A When he got off of me, I put my pants back on.

19 Q So the only clothing you removed were your pants?

20 A Yes.

21 Q Then you indicated that you walked. Where did you go?

22 A I walk down Belvidere to Mack.

23 Q And then eventually do you -- when you're on Mack, do  
24 you eventually end up on Van Dyke and Mack?

25 A Yes.

1 Q And whose house was that?

2 A A former friend named Ebony.

3 Q And then after you go to Ebony's house, where do you go  
4 next?

5 A I went home to my grandmother's house. I told her what  
6 happened and she gave me peroxide to rinse my mouth and  
7 stuff out with. And I called my sister and she said no,  
8 don't let nobody do this to you and get away with it.  
9 I'm taking you to the precinct.

10 So she took me to the 7th Precinct and they  
11 took me to Receiving Hospital.

12 Q Once you're at the hospital do the doctor's examine you?

13 A Yes.

14 Q Do they perform what is known as a rape kit?

15 A Yes.

16 Q Do they take swabs of your body?

17 A Yes.

18 Q And eventually in 2015, do you meet with an individual  
19 by the name of Detective Sabo?

20 A Yes.

21 Q Who is present in court?

22 A Yes.

23 Q Does Detective Sabo show you a lineup at all?

24 A Yes.

25 Q Can you describe for me what you saw when you saw this



1 lineup?

2 A I saw Arthur Jemison's picture and several other  
3 pictures.

4 Q Approximately how many pictures did you see?

5 A Eight.

6 Q Do you know if it was eight or are you guessing?

7 A I'm guessing.

8 Q At that time, did you pick out Arthur Jemison as the  
9 person who assaulted you in 1996?

10 A No.

11 Q Why did you not pick him out?

12 A I couldn't really remember the face. It's been 20  
13 years.

14 Q But you knew the name was Arthur Jemison?

15 A Yes.

16 Q Did you later on meet an individual by the name of  
17 Arthur Jemison?

18 A Yes.

19 Q Approximately what year did this happen?

20 A I was introduced to him in 2000 by my sister Andrea and  
21 his brother, Lajuan.

22 Q How did your sister know Mr. Jemison's brother?

23 A They have two children together.

24 Q And so you were introduced to him and that's how you  
25 knew him as -- what did you know him as in 2000?

1 A Arthur Jemison.

2 Q Did you say 2000 or 2001?

3 A 2000.

4 Q And you knew him as Arthur Jemison then?

5 A Yes.

6 Q And did you realize or know at all that he was the  
7 individual that could have even possibly done something  
8 to you in 1996?

9 A No.

10 Q Had you ever met him in 1996?

11 A No.

12 Q When you were parked on Belvidere with the car, were  
13 there other individuals around?

14 A No.

15 Q And can you describe that area for me?

16 A We pulled up. It was no house right there. It was a  
17 big lot.

18 Q Is it fair to call it an empty lot?

19 A Yes.

20 Q What time of day was it?

21 A 6:30, maybe 7 in the morning.

22 Q And this was September. Was the sun out yet?

23 A Yes.

24 Q Were there any other individuals around?

25 A No.

1 Q Now from -- in 2000, you met Arthur Jemison. Had the  
2 physical appearance of Mr. Jemison changed from 1996 to  
3 2000?

4 A Yes.

5 Q What changed from the person you saw in 1996 to when you  
6 met Mr. Jemison?

7 A He had to be about 150, maybe 160. When I was  
8 introduced to him, he was over 200 pounds.

9 Q So the individual that assaulted you was approximately  
10 150 to 160?

11 A Yes.

12 Q And then Mr. Jemison had put on a lot of weight?

13 A Yes.

14 Q Anything else had changed?

15 A No.

16 MS. LOZEN: Nothing further, Judge.

17 THE COURT: Thank you.

18 Cross-examination.

19 CROSS-EXAMINATION

20 BY MR. GLENN:

21 Q Good morning, ma'am.

22 I want to go back to some of the things you  
23 testified to here today. I want to go back to September  
24 14, 1996.

25 You said at that time you were working at a

1 motorcycle club, Outcast?

2 A Yes.

3 Q Do you remember your hours while you were working at  
4 Outcast?

5 A I was a dancer.

6 Q I said hours.

7 A 2 a.m.

8 Q That's what time you got off or started?

9 A Started.

10 Q What time did you get off?

11 A Five, sometimes six.

12 Q Do you remember what time you got off on this day, the  
13 14th of September?

14 A About 5:30.

15 Q And when you got off of work, you said that you had come  
16 into contact with a person by the name of Delano?

17 A Yes.

18 Q Had you known that person before?

19 A No.

20 Q So you had met him that night?

21 A No. He would frequent my neighborhood. We never hung  
22 out before.

23 Q Was he a member of the club?

24 A No.

25 Q So you just seen him in the neighborhood?

1 A Yes.

2 Q So you knew of him?

3 A Yes.

4 Q And I believe you said that you left with him or you met  
5 him and you were going to go out for breakfast?

6 A Yes.

7 Q And do you remember that he was driving an automobile?

8 A Yes.

9 Q Did you have a vehicle?

10 A No.

11 Q And when you got off of from the club, did you have any  
12 kind of a pre-plan on how you would leave the club or  
13 who would take you home or how you would get home?

14 MS. LOZEN: I don't know how that's relevant,  
15 Judge. I'm objecting to relevance.

16 MR. GLENN: It is relevant, because it has to  
17 do with her sequence of events that she said she was at  
18 a club with a guy and I'm cross-examining her --

19 THE COURT: I will allow it. Answer the  
20 question.

21 A My friend, she drove. I was going to ride home with  
22 them.

23 BY MR. GLENN:

24 Q You were going to ride home with someone else?

25 A Yes.

1 Q This friend is who?

2 A Ebony.

3 Q Ebony?

4 A (No verbal response)

5 THE COURT: Is that a yes?

6 A Yes.

7 THE COURT: Thank you.

8 BY MR. GLENN:

9 Q And when you left with this Delano, you said that you  
10 went to a location and had consensual sex?

11 A Yes.

12 Q What location was that?

13 A It was a house on Montclair.

14 Q And did you go inside of this house?

15 A Yes.

16 Q And do you know who resided at this house?

17 A No.

18 Q Or whose house it was?

19 A He said it was his cousins.

20 Q So you don't know? Delano said it was somebody he was  
21 related to or a cousin?

22 A Yes.

23 Q Anybody else in the house at the time?

24 A No.

25 Q How long were you there?

1 A About 30, 40 minutes.

2 Q And how far is this Montclair from the club?

3 A It's about 25 minutes.

4 Q And when you said you had consensual sex was this  
5 protected or unprotected?

6 A Protected.

7 Q So that means Delano was wearing a condom?

8 A Yes.

9 Q And when you left that location, do you remember where  
10 you went?

11 A We went on a street called Weyher.

12 Q Weyher?

13 A Weyher.

14 Q And can you give a cross street?

15 A It's by McClellan.

16 Q And you said there was a house at that location?

17 A Yes.

18 Q And Delano went inside?

19 A Yes.

20 Q And you said he was inside the house for over 30  
21 minutes?

22 A Yes.

23 Q And you were left inside of the car?

24 A Yes.

25 Q And the car was running the whole time?

1 A Yes.

2 Q And this was the Monte Carlo that you left in the  
3 Outcast club, right?

4 A Yes.

5 Q Anybody else in the car at that time other than  
6 yourself?

7 A No.

8 Q Were you doing anything that you remember while you were  
9 inside of the car waiting on Delano?

10 A No.

11 Q Did you see anybody else walking up and down the street  
12 at that time?

13 A No.

14 Q Is this still in the early morning hours of the 14th?

15 A Yes.

16 Q Was it light outside at that time?

17 A Yes.

18 Q Could you see anybody else walking up and down the  
19 street?

20 A No.

21 Q In houses or anything?

22 A No.

23 Q And there came a point in time when Delano came back to  
24 the car, right?

25 A Yes.



1 Q Did you see where he came from?

2 A Out of the house.

3 Q Did you see anybody else come out of the house with him?

4 A No.

5 Q When Delano came out of the house, he got back in the  
6 car?

7 A Yes.

8 Q And he drove the car where?

9 A To the end of the block to a house.

10 Q How far down the street would that have been?

11 A Six house, maybe seven.

12 Q So there were houses in between the house that Delano  
13 went into the house at the end of the block?

14 A Yes.

15 Q Were those occupied houses?

16 A I'm assuming so.

17 Q Do you know?

18 A Not one hundred percent.

19 Q And you said that when the car went down to the end of  
20 the street, it blocked the alley?

21 A Yes.

22 Q How so?

23 A He pulled up and he was blocking the alley. He mumbled  
24 something to himself.

25 Q Now did he turn the corner?

1 A No.

2 Q How could he block the alley?

3 A The alleyway is right next to the house. The block is  
4 only one block long. It wasn't a real long street.

5 Q Now I'm trying to figure out. The alley would be behind  
6 the house, right?

7 A No, because it ran like this.

8 Q So it would be the alley to the cross street?

9 A Yes.

10 Q What is the cross street?

11 A McClellan.

12 Q And you said Delano mumbled something to himself?

13 A Yes.

14 Q Was he talking to you at the time?

15 A No.

16 Q Did you ask him any questions about why he was stopping  
17 the car again?

18 A No.

19 Q When he stopped the car, do you see where Delano went?

20 A He went into the house.

21 Q He went into a house?

22 A The house next to the alley.

23 Q Now this wasn't the same house he got out of earlier?

24 A No.

25 Q Can you describe this house?

1 A It's a white house.

2 Q Just a white house?

3 A (No verbal response)

4 Q That's all you can remember?

5 A Yes.

6 Q Single family house?

7 A Single family home.

8 Q And you said as soon as Delano went inside the house,  
9 you saw somebody come out of the alley, right?

10 A Yes.

11 Q How was that person dressed?

12 A They were dressed very neatly.

13 Q Can you give me a description of what the person was  
14 wearing?

15 A Baseball cap, tan jackets, striped shirt, blue jeans,  
16 light colored blue jeans.

17 Q Were these full length jeans or shorts?

18 A Full length.

19 Q Anything else that you can remember?

20 A No.

21 Q Was the baseball cap covering his face?

22 A Yes.

23 Q How so?

24 A The cap was pulled down kind of far so you could barely  
25 see the whole eyes.

1 Q But the lower part of his face was exposed?

2 A Yes.

3 Q So you could see facial hair?

4 A He didn't have any facial hair at that time, just a  
5 moustache, not a beard or anything.

6 Q So he didn't have a goatee or a beard?

7 A No.

8 Q Clean shaven?

9 A Yes.

10 Q Was the moustache thick or thin?

11 A Thin.

12 Q What about his hair? Did you notice any type of hair  
13 length?

14 A No.

15 Q Under the cap?

16 A No.

17 Q Could you tell whether or not he wore glasses or not?

18 A No.

19 Q You indicated earlier this individual was slim?

20 A Yes.

21 Q How tall was he?

22 A About five-eleven, pretty close to six.

23 Q Close to six feet?

24 A Yes.

25 Q Anything else remarkable, any scars or any cuts, any

1 deformities that you noticed?

2 A No.

3 Q You said that the car that Delano had got out, when he  
4 got out of the car this second time, he left the car  
5 running again, right?

6 A Yes.

7 Q Just like he had left it before?

8 A Yes.

9 Q And when the person came out of the alley, he crossed in  
10 front of car or behind?

11 A In front.

12 Q And did you notice anything that he was doing as he was  
13 walking by the car?

14 A He touched the car with one finger.

15 Q Where?

16 A On the hood, the tip, the very front of it.

17 Q Did he make any eye contact with you or anything?

18 A Yes.

19 Q Was he staring at you while he was going by the car?

20 A Yes.

21 Q Could you describe -- you saw his eyes then?

22 A Very little.

23 Q But you did see his eyes?

24 A A little bit.

25 Q And there came a point in time when you said he jumped

1           into the driver's seat?

2    A       Yes.

3    Q       And what was your reaction when he jumped into the  
4           driver's seat?

5    A       I was frozed.

6    Q       And did you attempt to get out of the car?

7    A       No.

8    Q       Why not?

9    A       Because before I could do anything, he had the gun  
10          between my legs.

11   Q       When he was walking outside of the car, could you see a  
12          gun?

13   A       No.

14   Q       You said that he had a shirt on?

15   A       Yes.

16   Q       No jacket or no hoodie or anything like?

17   A       He had a tan colored jacket on.

18   Q       Was it waist length?

19   A       Yes.

20   Q       Was his hands in his pocket or outside of his pocket?

21   A       Outside of his pocket.

22   Q       Did you see where he got the gun from that he had?

23   A       He snatched that door open and that gun came out of the  
24          pocket.

25   Q       So the gun was already produced when he opened the door?

1 A Yes.

2 Q So he was pointing a gun at you when he opened the door?

3 A When he snatched the door open and hopped in, he  
4 immediately struck it between my legs.

5 Q Was the gun in his right hand or left hand?

6 A Right.

7 Q And he put the car in gear and drove away?

8 A Yes.

9 Q Was the gun still on you while he was driving?

10 A Yes.

11 Q So he was driving with his left hand and holding the gun  
12 against you with his right hand, right?

13 A He wasn't no longer holding it against me.

14 Q So he was driving with both hands at that time?

15 A No, just one.

16 Q Where was the gun then?

17 A Still in his hand.

18 Q Was it pointing at you at that time?

19 A No.

20 Q Where was his hand at while he was driving?

21 A Like this.

22 Q Like what?

23 A Like this. He was still holding it.

24 Q So he was holding it up?

25 A Yes. He was still holding it in his hand.

1 Q His arm in a 90 degree angle?

2 A Give or take.

3 Q And how long were you in the car before he stopped the  
4 car on Belvidere?

5 A Less than five minutes.

6 Q How far was it from Weyher and McClellan to Belvidere?

7 A A couple streets over.

8 Q How many blocks would that be, if you know?

9 A I would say about three, two to three.

10 Q Anything said by yourself or by this person while he was  
11 driving over to Belvidere?

12 A No.

13 Q Did he demand any money at the time from you?

14 A When he first got in the car, he demanded all my money.

15 Q And did you give him any money at that time?

16 A No.

17 Q So you refused to give him money?

18 A No. Before I could give the money to him, he put the  
19 car in gear and we started rolling. The car started  
20 moving.

21 Q So he demanded money. You couldn't give him money  
22 because he was driving away, right?

23 A Yes.

24 Q So when he stopped the car, did he demand money at that  
25 time?



1 A When he stopped the car, he pulled out his penis and  
2 told me suck it.

3 Q Where was the gun at then?

4 A Still in his hand.

5 Q You were in the front seat?

6 A Yes.

7 Q And there were other types of sexual acts that were  
8 performed, right?

9 A Yes.

10 Q And that was penis inside vagina?

11 A Yes.

12 Q How long were you in the car performing these sex acts  
13 before he told you to get out of the car?

14 A I don't know.

15 Q Did you leave any of your clothing inside of the car?

16 A No.

17 Q Do you know whether he ejaculated or not?

18 A Yes.

19 Q And do you know where the semen ejaculated?

20 A Yes.

21 Q Inside of you or outside?

22 A Inside.

23 Q So this was unprotected sex?

24 A Yes.

25 Q Now when he told you to get out of the car, were you

1 still on Belvidere?

2 A Yes.

3 Q Where did you go after you got out of the car?

4 A I started walking down Belvidere to Mack.

5 Q Did you have a purse?

6 A I had a book bag.

7 Q You had a book bag?

8 A Yes.

9 Q Was that still with you?

10 A Yes.

11 Q Did you have a cell phone?

12 A No.

13 Q At any point, did you have a phone?

14 A No.

15 Q Now as soon as you got out the car, did you attempt to  
16 tell anybody on that street or that block what happened  
17 to you?

18 A No.

19 Q Were any other pedestrians on the street at that time?

20 A No.

21 Q This is still daylight outside, right?

22 A Yes.

23 Q Early morning hours?

24 A Yes.

25 Q Do you remember about what time it was that you got out

1 of the car?

2 A Maybe about 7 a.m.

3 Q And you still didn't see anybody on the street?

4 A No.

5 Q No cars?

6 A No.

7 Q How far did you walk after you got out of the car?

8 A I walked from Belvidere to Van Dyke and then Van Dyke to  
9 Sheridan.

10 Q How far would that be?

11 A I don't know.

12 Q Did you pass any businesses or people on the street that  
13 you saw?

14 A No.

15 Q So when you were walking that distance nobody else was  
16 outside?

17 A No.

18 Q Nobody you could talk to and say hey, call the police?

19 A No.

20 Q Now when you walked to Van Dyke, was there a particular  
21 house you were walking to?

22 A I went by a former friend's house, Ebony.

23 Q Ebony have a last name?

24 A Jones.

25 Q And when you got to Ebony Jones' house, how long were

1           you there?

2    A       Less than five minutes.

3    Q       When you were at Ebony Jones' house, did you call the  
4           police?

5    A       No.

6    Q       Did Ebony Jones have a house -- sorry. Did Ebony Jones  
7           have a phone?

8    A       Yes.

9    Q       Did she call the police even though you didn't ask her?

10   A       No.

11   Q       When you left Ebony Jones' house where did you go, if  
12           anywhere?

13   A       My grandmother's.

14   Q       Where did she reside?

15   A       At that time, she lived on Sheridan.

16   Q       How far is Sheridan from this location on Van Dyke?

17   A       Four streets over.

18   Q       So four blocks?

19   A       Yes.

20   Q       How long did it take you to walk over there?

21   A       Less than 10 minutes.

22   Q       Before you left Ebony's house, did you make a phone  
23           call?

24   A       No.

25   Q       When you went over to your grandmother's house?

1 A Yes.

2 Q You went over there unannounced?

3 A No. I lived with my grandmother.

4 Q So this was home to you at that time?

5 A Yes.

6 Q When you got home, was anybody there?

7 A My grandmother, my siblings.

8 Q Anyone else?

9 A That's it.

10 Q Now when you say siblings, how many brothers and sisters  
11 are you talking about?

12 A Two sisters, two brothers.

13 Q Were they adults?

14 A No.

15 Q And did you tell any of them what had happened?

16 A No.

17 Q Did you ask anybody to call the police?

18 A No.

19 Q How long were you at your grandmother's house?

20 A An hour. I told her.

21 Q When you say her, you're talking about your grandmother?

22 A Yes.

23 Q But you did not tell your siblings?

24 A No.

25 Q After you told your grandmother, did either yourself or

1           your grandmother call the police?

2    A       No.

3    Q       Did there come a point in time in which the police were  
4           notified?

5    A       Yes.

6    Q       When was that?

7    A       When I talked to my sister --

8    Q       When was that?

9    A       About 10 a.m.

10   Q       So three hours later?

11   A       Yes.

12   Q       And where were you?

13   A       I was still at my grandmother's house.

14   Q       In between the time that you initially got to your  
15           grandmother's house, did you go anywhere in between the  
16           time?

17   A       No.

18   Q       So you stayed there the whole time?

19   A       Yes.

20   Q       And your grandmother and siblings were they there the  
21           complete time?

22   A       Yes.

23   Q       Did anybody come to your house while you were there  
24           before the police were called?

25   A       No.

1 Q Is there any particular reason why you took three hours  
2 to call the police?

3 A I was hesitate. I didn't want to do it, and my sister  
4 was like don't let nobody do that and get away with it.

5 Q So you were afraid, is that what you're saying?

6 A Yes.

7 Q Did there come a point in time when you went to the  
8 hospital?

9 A Yes.

10 Q When was that?

11 A I got to the 7th Precinct. They took me straight to  
12 Receiving.

13 Q Receiving Hospital.

14 A Yes.

15 Q Do you know what time you got to Receiving Hospital?

16 A No.

17 Q Did they perform a rape kit?

18 A Yes.

19 Q And took some swabs from you?

20 A Yes.

21 Q Did they ask you if you had sex with anyone other than  
22 this rape perpetrator?

23 A Yes.

24 Q Did you tell them?

25 A Yes.

1 Q Did they ask if it was unprotected sex or protected?

2 A Yes.

3 Q Did they collect any clothing from you?

4 A Yes.

5 Q What did they take from you?

6 A My pants and my underwear.

7 Q When you say underwear, you're talking about panties?

8 A Yes.

9 Q Anything else other than those items?

10 A No.

11 Q Now you said there came point in time when you came to  
12 know a person by the name of Arthur Jemison?

13 A Yes.

14 Q When was that?

15 A In 2000.

16 Q So back in 1996, you had not met this guy or known him?

17 A That is correct.

18 Q And when you met Mr. Jemison in the 2000, did you  
19 recognize the voice from the incident at all?

20 A No.

21 Q Mannerisms?

22 A No.

23 Q So even after you met him years later, you didn't have  
24 any idea of who he was or if you had seen him before?

25 A That's correct.



1 Q Did there come a point time when you gave a statement to  
2 the police?

3 A Yes.

4 Q When was that?

5 A The day when I went the 7th Precinct on the 14th. They  
6 asked who I was with, what happened. I gave a full  
7 statement.

8 Q Was that a written statement?

9 A Yes.

10 Q And do you read it before you signed it?

11 A Yes.

12 Q And you told the police everything you told us here  
13 today?

14 A Yes.

15 Q Did you leave anything out?

16 A No.

17 Q So you told the police as best you could the events of  
18 that day, right?

19 A Yes.

20 MR. GLENN: That's all I have, your Honor.

21 THE COURT: Thank you.

22 Any redirect?

23 MS. LOZEN: Briefly, Judge.

24 REDIRECT EXAMINATION

25 BY MS. LOZEN:

1 Q Lashawn, your sister, is she an older sister or younger  
2 sister?

3 A Older.

4 Q Does she live with your grandmother?

5 A No.

6 Q So she arrived at the house?

7 A Yes.

8 Q And so the other siblings that you described before are  
9 younger than you?

10 A Three are and one isn't.

11 Q Now did anybody call the police or did you walk into the  
12 precinct?

13 A Walked into the precinct.

14 Q So no one actually ever called. You just walked in?

15 A Just walked in.

16 MS. LOZEN: Nothing further, Judge.

17 THE COURT: Thank you.

18 Ms. Dowe, you are excused. Deputies will tell  
19 you how to leave the courtroom.

20 (At 10:16 a.m. witness excused)

21 THE COURT: Will the People be calling any  
22 additional witnesses?

23 MS. LOZEN: No, Judge. We have no further  
24 witnesses.

25 THE COURT: Mr. Glenn, are you calling any

1 witnesses?

2 MR. GLENN: No, your Honor.

3 THE COURT: Thank you.

4 Ms. Lozen, you may proceed.

5 MS. LOZEN: I will make the motion to bind the  
6 defendant over on Count 1, which is penis in genital  
7 opening, sex and Count 2, which is fellatio.

8 We reserve argument for rebuttal.

9 THE COURT: Thank you.

10 Mr. Glenn.

11 MR. GLENN: Question of fact for the trier of  
12 fact.

13 THE COURT: It is. It's definitely a question  
14 of fact for a trier fact.

15 Therefore, the defendant will be bound over to  
16 the Wayne County Third Circuit Court.

17 The arraignment on the information will be  
18 December 15, 2015 at 9 o'clock a.m.

19 Anything else for the People?

20 MS. LOZEN: No, Judge.

21 THE COURT: Nothing that you need the Court to  
22 sign off on, Ms. Lozen?

23 MS. LOZEN: The DNA testing form, I will give  
24 it to you, given the age of the case. Sometimes they  
25 don't require it, but I will give the form to you if it

1           is appropriate.

2                   THE COURT:   Thank you.

3                   Anything else on behalf of the defendant?

4                   MR. GLENN:   I would ask for a DSU referral.

5                   THE COURT:   I will refer it.

6                   MR. GLENN:   Thank you.

7                   THE COURT:   Thank you.

8                   (At 10:17 a.m. matter concluded)

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CERTIFICATE OF COURT REPORTER

STATE OF MICHIGAN

COUNTY OF WAYNE

I, Selena Wilson, Official Court Reporter in the  
State of Michigan, do hereby certify that the foregoing  
47 pages of transcript was reduced to typewritten form  
by means of Computer-Assisted Transcription and comprise  
a full, true and correct transcript of the proceedings  
taken in the above-entitled matter on Tuesday, December  
8, 2015.



Selena Wilson, CSR-3008  
Certified Court Reporter

Dated: 1-12-2016

**Arraignment on Information, 12-15-15**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

vs.

Case No. 15-010216-01-FC

ARTHUR JEMISON,

Defendant.

 **COPY**

ARRAIGNMENT ON INFORMATION

BEFORE THE HONORABLE DALTON ROBERSON

DETROIT, MICHIGAN - TUESDAY, DECEMBER 15, 2015

APPEARANCES:

For the Plaintiff: WAYNE COUNTY PROSECUTOR'S OFFICE  
1441 St. Antoine  
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Detroit, Michigan 48226  
BY: LISA LOZEN, ESQUIRE

For the Defendant: GLENN & GLENN, P.C.  
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LUTHER GLENN, ESQUIRE

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APPELLATE DEFENDER OFFICE

Audrey R. Kahn, CSMR-1374  
248.681.1867

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I N D E X

NONE



1 Detroit, Michigan

2 Tuesday, December 15, 2015

3 - - -  
4 (At 9:32: a.m., proceedings begin.)

5 THE COURT: This is case number 15-010216

6 *People of the State of Michigan v Arthur Larome Jemison.*

7 He's charged with criminal sexual conduct in the second  
8 degree, that's two counts, multiple variables. He's here  
9 today for the purpose of arraignment on the information.

10 Counsel?

11 MS. LOZEN: Good morning, your Honor, Lisa  
12 Lozen for the People.

13 MR. GLENN: Good morning, your Honor,  
14 Luther Glenn appearing on behalf of Mr. Jemison for  
15 purpose of the arraignment. Waive the formal reading of  
16 the information, my client stands mute.

17 THE COURT: I'll enter a plea of not guilty  
18 for him. What is your pleasure in this case, counsel?

19 MR. GLENN: We ask that it be set on track.

20 THE COURT: You've got it. You got the  
21 sheets ready?

22 THE CLERK: I do have the sheets ready.  
23 Did you say second degree or first degree?

24 THE COURT: First degree, criminal sexual  
25 conduct in the first degree, two counts, multiple

1 variables; is that right?

2 MR. GLENN: Correct, your Honor.

3 THE CLERK: Motions shall be time-stamped  
4 and filed no later than January 26, 2015, motions shall be  
5 heard on February 2nd, 2015, final conference will be the  
6 same day, February 2nd, 2015. I need everybody to sign  
7 this.

8 (Proceedings concluded at 9:34 a.m.)

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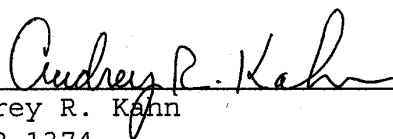
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CERTIFICATION

I certify that this transcript, consisting of 5 pages, is a true and accurate transcription of the proceedings in this case before the Honorable Dalton Roberson on Tuesday, December 15, 2015.



Audrey R. Kahn  
CSMR-1374

Dated: July 25, 2016

Motion, 2-5-16, 55a

**Motion, 2-5-16**

STATE OF MICHIGAN  
IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION

**COPY**

THE PEOPLE OF THE  
STATE OF MICHIGAN

Criminal Action  
No. 15-010216-01

vs.

ARTHUR JEMISON,  
Defendant.  
-----/

MOTION  
BEFORE THE HONORABLE DALTON A. ROBERSON  
CIRCUIT COURT JUDGE

1441 St. Antoine, Room 603, Detroit, Michigan 48226  
Friday, February 5, 2016

APPEARANCES:

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Reported by:                      Zelda Harris Releford   CSR 4897  
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WITNESS:  
None called

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EXHIBITS:  
None offered

1 Detroit, Michigan

2 Friday, February 5, 2016

3  
4  
5 --- --- ---

6  
7 (At or about 9:46 a.m.  
8 matter commenced.)  
9

10  
11 THE COURT: Case No. 15-010216, People of the  
12 State of Michigan vs. Arthur Jemison. He's before the  
13 Court this morning for the purpose of a Motion to Exclude  
14 Post Sexual Encounters pursuant to MCL 750.520(j).

15 Counsel.

16 MS. LOZEN: Good morning, your Honor.

17 Lisa Lozen, for the People.

18 MR. GLENN: Good morning, your Honor.

19 Luther Glenn, on behalf of Mr. Jemison.

20 MS. LOZEN: And, Judge, I did file a Motion to  
21 Exclude a Post Sexual Assault Sexual Encounter. The sexual  
22 assault in this offense occurred in 1996. Judge, this is  
23 one of the rape kit project cases. And so the kit went  
24 untested. The science was not available back in 1996, but  
25 it has subsequently been tested which identified the

1 defendant in this matter as the person -- his DNA matched  
2 the DNA in the rape kit. So he was, you know, in my  
3 opinion or I'm arguing to the Judge that he was the  
4 perpetrator in this offense.

5 In any event, the victim did not know Mr. Jemison  
6 in 1996. In 2000 the year 2000 she was introduced to him  
7 through her sister's boyfriend, and after that they did, in  
8 fact, have one sexual encounter. And I filed a motion to  
9 exclude any mention of that sexual encounter that happened  
10 after the rape because I think it's not relevant. It  
11 doesn't take it away or add to anything that occurred in  
12 1996. The 1996 assault was an assault between strangers  
13 essentially. Even when defendant was Mirandized and then  
14 interviewed by the detective he also admitted to not  
15 knowing the victim in 1996. So he has no explanation for  
16 how his DNA ended up in her rape kit.

17 And the reason for the rape shield generally  
18 speaking is because they wanted to -- the victim has  
19 legitimate expectation of privacy, and they also the  
20 legislature wants to encourage people to report sexual  
21 offenses.

22 THE COURT: Counsel, I'm familiar with all of  
23 that.

24 MS. LOZEN: Thank you, Judge.

25 So with that being said I just want -- I believe



1 it would be unfairly prejudicial to the victim, and it also  
2 would not be relevant to the jury when they're determining  
3 the facts of the 1996 offense to discuss any consensual  
4 encounter that happened in 2000.

5 MR. GLENN: Your Honor, I would object to that  
6 because with the rape shield is prying into a victim's  
7 sexual history with the people that are unfamiliar with the  
8 complainant. This is a situation where you're not dealing  
9 with a sexual encounter between the complainant and someone  
10 else and you're trying to disparage character or habit or  
11 anything like that.

12 This is a relationship where she claims that she  
13 didn't know my client at the date and time of this  
14 allegation, and that after this allegation takes place they  
15 had a romantic relationship and they had sexual  
16 relationships. And so this is not disparaging or  
17 embarrassing her or anything like that. And this is a case  
18 here where who knew who when and what the relationship was  
19 is what this case is all about.

20 And so I think that it's very relevant.  
21 And it's not going to put the victim in a situation or a  
22 position where she's just being grilled and embarrassed for  
23 some type of activity that's outside of the parties  
24 involved with this case.

25 If this were sexual relationship with a third

1 person or third party that would be completely different.  
2 But that's not what we have here.

3 THE COURT: You want to respond to that,  
4 counsel?

5 MS. LOZEN: Judge, my response is that you have  
6 the discretion on whether or not to admit it or not, and  
7 there is case law that talks about whether or not to admit  
8 it, and in the case it was a -- People vs. Adair,  
9 A-D-A-I-R, and in that case it was a husband and wife  
10 situation. So the parties were familiar with each other.  
11 Identity was known. Identity was not an issue. And so  
12 that what distinguishes that case versus what our case is  
13 about the identity.

14 THE COURT: Well, let me ask you this: Her  
15 identification is based on the fact that she had this  
16 previous sexual encounter with him.

17 MS. LOZEN: No, Judge, when the --

18 THE COURT: Wait, wait, wait. The detective  
19 showed Ms. Sams-Dowe a lineup, and she failed to identify  
20 anyone as her assailant.

21 MS. LOZEN: That's correct.

22 THE COURT: I presume his picture was in the  
23 lineup.

24 MS. LOZEN: That's my understanding, yes.

25 THE COURT: The detective then showed

1 Ms. Sams-Dowe a single photo of Mr. Jemison and asked her  
2 if she knew who he was. Ms. Dowe stated "Yeah, that looks  
3 like Artie (ph.)" Ms. Sams-Dowe explains that she did not  
4 initially identify Mr. Jemison in the lineup because she  
5 thought there could be no way he could have been involved  
6 in this case. Ms. Sams-Dowe later explained "that she met  
7 Mr. Jemison in 2000 as he was the brother of her sister's  
8 boyfriend." Ms. Sams stated "that she and Mr. Jemison did  
9 have one sexual encounter."

10 So she's basing her identification on her  
11 previous sexual encounter.

12 MS. LOZEN: No, Judge. Actually at the  
13 preliminary exam she did not identify him as her rapist.  
14 We had to do an identification through the DNA.  
15 Ms. Sams-Dowe testified at the preliminary examination that  
16 during the assault he had a gun on her. So she never  
17 actually looked at his face, and she could never identify  
18 him.

19 THE COURT: Counsel, now I didn't see all that.  
20 All I see is that she said "at first she couldn't identify  
21 him. She didn't pick him out."

22 MS. LOZEN: That's correct. And that's exactly  
23 what was said at the preliminary exam.

24 THE COURT: And then she said, "the reason I  
25 didn't pick him out because I thought it could never be

1 him". "Artie" (ph.) she refers to him as.

2 MS. LOZEN: That's correct.

3 THE COURT: Then when she saw the single  
4 pictures she says, "Now I remember that's him because I had  
5 a relationship with him before."

6 MS. LOZEN: That's correct. But again she did  
7 not identify him as her rapist. She identified him as a  
8 man that she had sex with later on.

9 I'm saying it's unfairly prejudicial to her, and  
10 that's what the rape shield is all about is to not -- it's  
11 not relevant because who cares if they had sex later on?  
12 The fact remains is what happened in 1996. And what  
13 happened in the year 2000 --

14 THE COURT: You mean who cares if they had  
15 previous sex.

16 MS. LOZEN: I'm sorry?

17 THE COURT: You mean who cares if they had  
18 previous sex. You said, "if they had sex later on."

19 MS. LOZEN: Well, Judge, --

20 THE COURT: The sexual encounter -- the  
21 consensual sex came first, right?

22 MS. LOZEN: No. The consensual sex came later.

23 That's correct in the year 2000. The assault  
24 happened in 1996, and then the consensual sex happened in  
25 2000. And so because the consensual sex happened -- again

1 she was introduced to him in the year 2000 by her sister,  
2 and she did not know him in 1996, and he also acknowledged  
3 not knowing her in 1996. She did not get a good look at  
4 the perpetrator because again he had a gun on her, and she  
5 kept he head down. He never looked at her.

6 And so I'm saying that to inform the jury of  
7 the fact -- I mean, I can inform the jury that they've met,  
8 and the reason that she met him in 2000 is because she met  
9 him through her sister, and that whole relationship that  
10 happened in their dynamic of their family. But the fact  
11 that they had sex is what I want to exclude. That's the  
12 reason the rape shield exist to -- basically, the  
13 legislature is saying it's not relevant.

14 THE COURT: I disagree with you, counsel.  
15 Your Motion to Exclude is denied. Thank you. That's it.

16 MS. LOZEN: Judge, we do need to pick a trial  
17 date, and then I may have to talk to my appellate  
18 department about an appeal on that.

19 THE COURT: That's up to you.

20 MS. LOZEN: Thank you, Judge.

21 I do have some bad dates for trial, but when is  
22 your Honor scheduling?

23 THE COURT: I don't know. She'll set the trial  
24 date.

25 How long do you all think it would take to try

1 this case?

2 MR. GLENN: Two days. I believe two days.

3 MS. LOZEN: There is a medical evidence as well  
4 as scientific evidence. There's DNA.

5 And, Judge, just for the record, can I get the  
6 basis for your denial just that you think it's relevant  
7 or --

8 THE COURT: I think it's unfair. I think it's  
9 unfair for her to come into court and say exclude the fact  
10 that I had sex with him prior to him raping me, and I  
11 didn't know who he was at that time. Because she basing  
12 her identification based on that.

13 MS. LOZEN: She doesn't, Judge. They did not  
14 have --

15 THE COURT: Counsel, I think she does.

16 MS. LOZEN: She did not have prior sex with him.  
17 She had post sex with him.

18 THE COURT: Yes. You're telling me that someone  
19 has sex with someone. Then they later have consensual sex  
20 with them, and they don't know the person -- that's the  
21 same person that raped them?

22 MS. LOZEN: He had a gun on her, Judge. She did  
23 not look at his face.

24 THE COURT: Counsel, I -- look there is no one  
25 more sympathetic to rape victims than me. If you don't

1 believe it ask that guy standing right behind you. I give  
2 more time out for rape than anything.

3 MS. LOZEN: I've seen it, Judge.

4 THE COURT: But I think it has to be a fair  
5 hearing. And I don't think it's fair for her to come in  
6 here the way she's coming in here and say I've never seen  
7 the guy before, or I never recognized him before. Because  
8 that goes into her identification.

9 THE COURT: What do you think?

10 MS. LOZEN: Judge, defense counsel needs to make  
11 an offer of proof of what his defense is because in this  
12 situation --

13 THE COURT: I'll allow that. What is your  
14 defense?

15 MR. GLENN: It would be consensual. It's  
16 consent. That's the nature of defense. It's not, you  
17 know, --

18 THE COURT: Well, but wait a minute. At the  
19 interview he said he didn't know her.

20 MS. LOZEN: Exactly, Judge.

21 MR. GLENN: The thing is whether or not if  
22 you're putting anything in context I think you have to put  
23 his statement in place, and the fact that he said he didn't  
24 know her I don't think that's the case at all. The thing  
25 is she looked at a photograph and said that's "Artie". She

1 knew who he was. It's not like she didn't know who this  
2 person was. She knew who he was.

3 THE COURT: What do you say about?

4 MS. LOZEN: My response, Judge, is when they  
5 Mirandized him they took him through the family history of  
6 these two individuals, and he knew who she was when -- the  
7 same thing happened when the officer showed him a picture  
8 of her he said, "Yeah, I met her later on in life, too, in  
9 the year 2000." And he was able to also -- so essentially  
10 their stories are lining up in the fact that they met each  
11 other in the year 2000.

12 THE COURT: Yes.

13 MS. LOZEN: But, again, he had no explanation  
14 for his DNA being in her rape kit, and they questioned him  
15 multiple times and gave him multiple opportunities to say  
16 oh, yeah, now I remember. I've had time to think about it.  
17 And he cannot explain how his DNA ended up in her rape kit.

18 MR. GLENN: No. What I'm saying here is that  
19 these parties knew each other on the date of this incident,  
20 and this lady did not identify my client as the  
21 perpetrator.

22 If you look at the facts and evidence that were  
23 going on through that day she was a strip dancer at a club,  
24 at a motorcycle club, and she was working the club and  
25 dancing, and doing things that day and --



1 THE COURT: Why didn't you submit a written  
2 response to her motion?

3 MR. GLENN: I should have, but I didn't. I'm  
4 sorry.

5 THE COURT: I'll give you a week to submit one.

6 MR. GLENN: Okay. All right.

7 THE COURT: And then I'll withhold my decision  
8 until I see both sides of it. Okay?

9 MR. GLENN: Okay.

10 MS. LOZEN: What date would you like us back?

11 THE COURT: Next Friday.

12 (Proceedings concluded  
13 at 9:57 a.m.)

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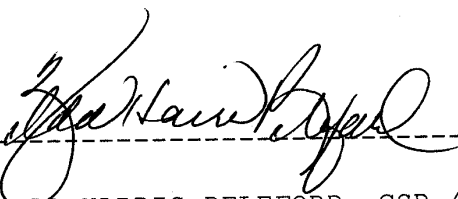
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CERTIFICATE OF REPORTER

STATE OF MICHIGAN )  
 )  
COUNTY OF WAYNE )

I, ZELDA HARRIS RELEFORD, certify that  
this transcript, consisting of 14 pages, is a complete,  
true, and correct transcript of the proceedings taken in  
the matter of the People vs. Arthur Jemison, Case No.  
15-010216-01FC, on Friday, February 5, 2016.

  
-----  
ZELDA HARRIS RELEFORD, CSR 4897  
Official Court Reporter

Pretrial, 2-22-16, 70a

**Pretrial, 2-22-16**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff,



**COPY**

vs.

Case No. 15-010216-01-FC

ARTHUR JEMISON,  
Defendant.

PRETRIAL

BEFORE THE HONORABLE MICHAEL CALLAHAN

DETROIT, MICHIGAN - MONDAY, FEBRUARY 22, 2016

APPEARANCES:

For the Plaintiff: WAYNE COUNTY PROSECUTOR'S OFFICE  
1441 St. Antoine  
1th Floor  
Detroit, Michigan 48226  
BY: LISA LOZEN, ESQUIRE

For the Defendant: GLENN & GLENN, P.C.  
9930 Nardin Park Drive  
Second Floor  
Detroit, Michigan 48204  
LUTHER GLENN, ESQUIRE

COURT REPORTING

15 JUL 25 AM 7:45

FHM

**RECEIVED**

JUL 28 2016

APPELLATE DEFENDER OFFICE

Audrey R. Kahn, CSMR-1374  
248.681.1867

Processed  
Notice of Filing Sent  
7/25/16  
Clerk

I N D E X

NONE

1 Detroit, Michigan

2 Monday, February 22, 2016

3 - - -  
4 (At 9:29 a.m., proceedings begin.)

5 THE COURT: *People v Arthur Jemison.*

6 MS. LOZEN: Good morning, your Honor, Lisa  
7 Lozen for the People.

8 MR. GLENN: Luther Glenn for Mr. Jemison.

9 MS. LOZEN: And, Judge, today we were sent  
10 back up here to pick a trial date.

11 THE COURT: How about April 25th?

12 MS. LOZEN: Judge, my victim is due to have  
13 a baby on May 3rd and that's very unpredictable, so I  
14 would ask for something after the 3rd, but then again she  
15 would also need time to recuperate as well. And I would  
16 ask for a couple weeks for her to recuperate afterwards.

17 THE COURT: May 16th?

18 MS. LOZEN: That's two weeks for Easter  
19 break, could we do the 23rd, Judge?

20 THE COURT: Mr. Glenn?

21 MR. GLENN: Your Honor, is there a DSU  
22 report in the file to address my client's bond?

23 THE COURT: I have no idea. How about May  
24 23rd?

25 MR. GLENN: That's a good date, your Honor.

1 THE COURT: There is no DSU report.

2 MR. GLENN: May I ask for a DSU review  
3 referral, your Honor?

4 THE COURT: Sure.

5 THE CLERK: How about March 3rd?

6 MR. GLENN: That's good.

7 MS. LOZEN: That's fine, Judge.

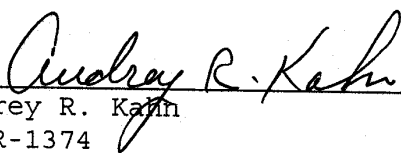
8 THE COURT: I'll sign the trial order and  
9 the defendant and attorneys may do so as well.

10 MR. GLENN: Thank you, your Honor.

11 (Proceedings concluded at 9:31 a.m.)  
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CERTIFICATION

I certify that this transcript, consisting of 5 pages, is a true and accurate transcription of the proceedings in this case before the Honorable Dalton Roberson on Monday, February 22, 2016.

  
\_\_\_\_\_  
Audrey R. Kahn  
CSMR-1374

Dated: July 25, 2016



Motion, 3-9-16, 76a

**Motion, 3-9-16**

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION

THE PEOPLE OF THE  
STATE OF MICHIGAN,  
  
Plaintiff,  
  
vs.  
  
ARTHUR JEMISON,  
  
Defendant.

Case No. 15-010216-01-EC

**COPY**

**RECEIVED**

SEP 01 2016

MOTION

APPELLATE DEFENDER OFFICE

BEFORE THE HONORABLE DALTON A. ROBERSON

FRANK MURPHY HALL OF JUSTICE

1441 ST. ANTOINE - COURTROOM 503

WEDNESDAY, MARCH 9, 2016

APPEARANCES:

For the People: WAYNE COUNTY PROSECUTOR'S OFFICE  
By: Lisa Lozen, Esq. (P74180)  
1441 St. Antoine - 10th Floor  
Detroit, Michigan 48226  
(313) 224-5777

For the Defendant: LUTHER W. GLENN, JR., ESQ. (P38683)  
9930 Nardin Park Drive - 2nd Floor  
Detroit, Michigan 48204  
(248) 974-5526

COURT REPORTER: Theresa L. Roberts, CSR-4870  
Certified Shorthand Reporter

8/31/16

1 Detroit, Michigan

2 Wednesday, March 9, 2016

3 (At about 9:27 A.M.)

4

5 THE COURT: This is Case Number 15-01216,  
6 People of the State of Michigan versus Arthur Larome  
09:27:27 7 Jemison. Mr. Jemison is before the Court this  
8 morning for the purpose of a hearing to reduce his  
9 bond. Counsel.

10 MS. LOZEN: Good morning, Your Honor.  
11 Lisa Lozen for the People.

12 MR. GLENN: Good morning, Your Honor.  
13 Luther Glenn for Mr. Jemison. My client is in the  
14 back.

15 THE COURT: Oh, we don't need him out  
16 here. You can tell him what happened.

17 MR. GLENN: All right. Your Honor, the  
18 present bond in this matter --

19 THE COURT: Is \$200,000, right?

20 MR. GLENN: Yes.

21 THE COURT: Ms. Lozen, what do you have  
22 to say about this?

23 MS. LOZEN: Judge, he has subsequent and  
24 prior convictions. This assault did occur in 1996,  
09:27:57 25 but he does have subsequent assaultive history.

1 THE COURT: Felony convictions?

2 MS. LOZEN: He has a long history -- he  
3 has a long felony history, Judge, after this offense  
4 occurred, including capias history. And, again this  
5 crime was assaultive in nature as well as the other  
6 crimes that occurred after this. He has a great  
7 bodily harm conviction as well as a felony firearm  
8 conviction. And it's alleged in this assault that  
9 he did, in fact, use a gun. So he has a history of  
10 guns -- actually convictions for guns. He also has,  
09:28:24 11 in 1990 -- I'm sorry -- in 2005, a -- 2006 -- he has  
12 a 2005 gun case -- I'm sorry, drug case that was  
13 dismissed, but then a 2006 --

14 THE COURT: Well, I don't count  
15 dismissals.

16 MS. LOZEN: No, correct, but in 2009 he  
17 was convicted of possession of controlled  
18 substances, 50 to 499 grams of narcotics, a  
19 substantial amount, and so, because of that, he was  
20 sentenced to 4 years to 20 years in prison. And  
21 this offense he's currently on --

22 THE COURT: Counsel, I have his criminal  
23 record.

24 MS. LOZEN: Yes, but he's currently on  
25 parole for that. So he is currently on parole.

1 THE COURT: Is he on parole?

09:28:59 2 MR. GLENN: I believe he is on parole.

3 But my -- my argument would be that that's even more  
4 evidence that my client won't jump bond because he  
5 will be monitored by the Parole Department if they  
6 choose to release him.

7 THE COURT: They got a hold on him now?

8 MR. GLENN: I'm not -- if he's on parole  
9 he might have a parole detainer.

10 THE COURT: You didn't ask him?

11 THE DEPUTY: I don't have one.

12 THE COURT: You don't have a hold on him?

13 THE DEPUTY: But I can't prove that. I  
14 can't prove it.

09:29:29 15 MS. LOZEN: Judge, he also has a 2013 and  
16 a 2015 charge for domestic violence. Those were  
17 dismissed, but it shows that he's having contacts  
18 with the criminal justice system, and those contacts  
19 are what concern me.

20 THE COURT: He hasn't had contact if it  
21 was dismissed. I can make a complaint against you.  
22 Don't count them.

23 MS. LOZEN: Well, Judge, they're just  
24 similar in nature. They're assaultive.

25 THE COURT: I don't count them, I don't

1 count them. You know, anybody can come down and  
2 make a charge against somebody. Bond is set at  
3 \$50,000, 10%.

4 MR. GLENN: Thank you, Your Honor.

09:29:57 5 MS. LOZEN: And I'd ask for no contact  
6 with the complainant.

7 THE COURT: I would assume that he knows  
8 that, right?

9 MR. GLENN: He knows that, Judge. He  
10 doesn't want to go anywhere near.

11 THE COURT: If not, we can put it in the  
12 order.

13 MR. GLENN: Thank you.

30:33 14 (Proceedings concluded about 9:30 A.M.)

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## 1 CERTIFICATE OF NOTARY PUBLIC - COURT REPORTER

2  
3 I do certify that the attached  
4 proceedings were taken before me in the  
5 above-entitled matter; that the proceedings  
6 contained herein was by me reduced to writing by  
7 means of stenography, and afterwards transcribed  
8 upon a computer. The attached pages are a true and  
9 complete transcript of the proceedings.

10 I do further certify that I am not  
11 connected by blood or marriage with any of the  
12 parties, their attorneys or agents, and that I am  
13 not an employee of either of them, nor interested,  
14 directly or indirectly, in the matter of  
15 controversy.

16 IN WITNESS WHEREOF, I have hereunto set  
17 my hand and affixed my notarial seal at West  
18 Bloomfield, Michigan, County of Oakland, this 24th  
19 day of August 2016

20  
21   
22 Theresa L. Roberts, CSR

23 Certified Shorthand Reporter - CSR-4870

24 Notary Public - Oakland County, MI

25 My commission expires 10-4-2020

09:43:23

**Prosecution Motion**



---

STATE OF MICHIGAN  
IN THE THIRD CIRCUIT COURT, COUNTY OF WAYNE  
CRIMINAL DIVISION

---

PEOPLE OF THE STATE OF MICHIGAN

V.

ARTHUR JEMISON

Hon. Ulysses Boykin

Case No. 15-010216

Lisa M. Lozen P74180  
Assistant Prosecuting Attorney  
Wayne County Prosecutor's Office  
1441 St. Antoine  
Detroit, MI 48226  
313-224-2540

Luther W. Glenn P38683  
Attorney for Defendant  
9930 Nardin Park Dr Fl 2  
Detroit, MI 48204  
248-974-5526

---

MOTION IN LIMINE TO ADDRESS PRETRIAL ISSUES  
AND TO OBTAIN PRETRIAL RULINGS

---

Now come the People of the State of Michigan, ex rel. Kym L. Worthy, Wayne County Prosecutor, by and through Lisa M. Lozen, Assistant Prosecuting Attorney, respectfully moves this Court to address pretrial issues that have been raised through communications with Defense Attorney Luther Glenn. The People are bringing these issues to the Court's attention so as to address these issues before the trial date.

PRETRIAL ISSUES

1. Laboratory Reports

The People have been in communication with Defense Attorney Luther Glenn regarding lab reports which the People intended to admit at trial pursuant to the Michigan Court Rule 6.202 Notice that the People filed on November 30, 2015 (see attached Exhibit 1). The People have

never received an objection to the People's MCR 6.202 Notice of Intent to Use Technician's Report in Lieu of Testimony.

Attorney Glenn stated in an e-mail that he would be objecting to lab reports that do not comply with MRE 703. The People provided Attorney Glenn with the facts and data that the Forensic DNA Analysts use to base their opinion or inference pursuant to MRE 703. The People also provided Attorney Glenn with the Curriculum Vitae of the Forensic DNA Analyst who would be called by the People to testify at trial. The People seek a pretrial ruling as to the admissibility of the lab reports that were provided to Attorney Glenn and the Court pursuant to MCR 6.202 on November 30, 2015.

2. Video Testimony

The People seek to take testimony of Forensic DNA Analyst Derek Cutler by video testimony, should his testimony become necessary. The People request that this Court permit the testimony pursuant to MCL 766.11a.

Forensic DNA Analyst Derek Cutler is employed with Sorenson Forensic Laboratory which is based out of Salt Lake City, Utah. Forensic DNA Analyst Cutler is the author of a Forensic Case Report that described the DNA analysis of the rape kit in this case.

3. Witness List

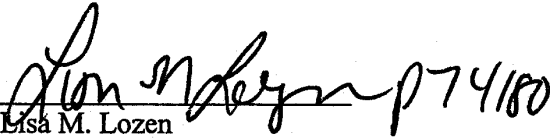
The People were also in communication with Attorney Glenn regarding the Chain of Custody regarding the rape kit in question. Attorney Glenn stated that he would not stipulate to the Chain of Custody. As such, the People intend to amend the witness list to include Sgt. David Dehem of the Detroit Police Property Section as well as any other chain of custody witnesses

that become known. As an offer of proof, Sgt. Dehem can testify to the computer system used by the Detroit Police Property Section to track evidence. Sgt. Dehem can testify to business records that indicate the rape kit relating to this case was submitted to the Property Section on September 17, 1996 and then transferred out to Sorenson Forensics on December 10, 2013.

WHEREFORE, the People respectfully request that this honorable Court address these pretrial issues in a pretrial hearing.

Respectfully submitted,

Date: 8-13-16

  
 Lisa M. Lozen  
 Assistant Prosecuting Attorney

# Exhibit 1

FILED  
CATHY M. GARRETT  
WAYNE COUNTY CLERK  
STATE OF MICHIGAN  
IN THE COURT FOR THE COUNTY OF WAYNE

2015 NOV 30 A 11:33

PEOPLE OF THE STATE OF MICHIGAN  
Plaintiff,

vs.

36 Dist File No. 15-62018

Hon. S. Holmes

ARTHUR JEMISON


Defendant /

NOTICE OF INTENT TO USE TECHNICIAN'S REPORT  
IN LIEU OF TESTIMONY

Pursuant to MCR 6.202, the People are providing notice of their intent to place into evidence the attached certified laboratory report(s) of the technician in lieu of such technician's testimony at the Preliminary Examination and/or trial. See attached reports of Catherine T. Maggert, MS, Forensic Scientist with the Biology Unit of the Michigan State Police; Derek Cutler, Forensic DNA Analyst I with Sorenson Forensics; and Joshua Strong, Forensic Scientist with the CODIS Section of the Michigan State Police.

This notice is to further advise the Court that such report(s) have been received by the Office of the Prosecuting Attorney, and a copy has been or will be provided to the Defendant or his counsel, pursuant to Michigan Court Rule 6.202(C).

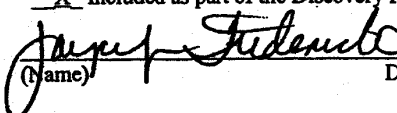
DATED: 11/30/2015

  
By: Lisa M. Lozen  
Assistant Prosecuting Attorney

PROOF OF SERVICE

The undersigned certifies that a copy of this document was provided to the Defendant's attorney of record by

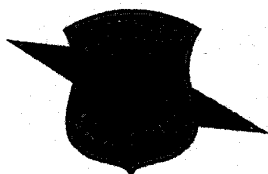
- ☐ Personally handing same to him/her
- ☐ by mailing via first class mail
- ☐ placing in said attorney's "pick-up box" in the District or Circuit Court Clerk's office
- ☐ via email
- ☒ Included as part of the Discovery Packet

  
(Name) \_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn to before me on  
November 30, 2015

Acting in the County of Wayne

My commission expires: 3/8/2021



STATE OF MICHIGAN  
DEPARTMENT OF STATE POLICE  
BIOMETRICS AND IDENTIFICATION DIVISION

Lansing Laboratory  
7320 N. Canal Rd  
Lansing, MI 48913  
(517) 322-6600  
FAX (517) 322-5508

LABORATORY REPORT

Laboratory No. : KIT14-20030  
Investigating Ofcr. : Marvin Jones  
Agency : Detroit Police Department  
Agency No. : E28034496, E280344

Record No. : 2  
Date Received : February 26, 2015  
Time Received : 9:37 a.m.  
Date Completed : February 26, 2015

The following information contained in this report is to be regarded as Investigative Information. Any identification made in this report must be verified by the submission of a new biological sample from the below listed individual to the Biology Unit at the Michigan State Police Northville Forensic Laboratory. You must submit the sample directly to the Northville Forensic Laboratory along with a completed FSD-007 (Laboratory Examination Request) form.

**Nature of Offense:**

1100-1 - Sexual Assault CSC 1st

**Victim:**

Sams, Talisha

**Results of Search:**

DNA Database Specimen to Case Association

A search of the COMbined DNA Index System (CODIS) database resulted in an association between item KIT14-20030-1-SF (Vaginal swabs - sperm fraction) and DNA database specimen number MIAB34948. This is deemed investigative information.

The DNA database specimen information is:

DNA Database Specimen Number: MIAB34948  
DNA Database Specimen Name: ARTHUR JEMISON  
DNA Database Specimen SID: 1763195E  
Date of Birth: 10/23/1974

The genetic profile for this individual was confirmed by reanalysis using the Polymerase Chain Reaction (PCR) and the Promega PowerPlex® Fusion System.

**Request for Additional Samples:**

The Michigan CODIS database quality control and quality assurance criteria for final confirmation of associations requires that a new biological sample be obtained from the alleged suspect to confirm the reported association.

Upon availability of a confirmation sample from ARTHUR JEMISON, further DNA comparison and population statistical estimations can be made. Questions should be directed to the Biology Unit at the Michigan State Police Northville Forensic Laboratory.

*This report contains the conclusions, opinions, and/or interpretations of the laboratory analyst whose signature appears on this report. This analyst is qualified by education, training, and experience to perform this analysis and does so as part of his or her regular duties. The analysis was conducted in a MSP laboratory accredited under the ASCLD/LAB international program since July 26th, 2012.*

*The relevant supporting data upon which the expert opinion or inference was made are available for review/inspection.*

Report Issued: March 2, 2015

Laboratory No.: KIT14-20030  
Agency No.: E28034496, E280344

Record No.: 2

Date of Report: February 26, 2015



Joshua Strong  
Forensic Scientist  
CODIS Section

February 26, 2015

cc: Catherine Maggert, PA\_SAK\_Project, Heather Vitta

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Report Issued: March 2, 2015

## Forensic Advantage Discovery Packet

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### Released Information

Regarding: KIT14-20030 2  
Requested: 3/2/2015 FA  
2:45:01 PM  
Packet: Lab Report Only (PDF)  
Lab Report not zipped so it can be faxed.

### Table of Contents:

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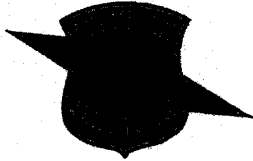
Lab Report-Released-(17057082).pdf	1
Lab Report-Released-(17057082).pdf	

### Additional Files:

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The following files were included separately from the packet document:





STATE OF MICHIGAN  
DEPARTMENT OF STATE POLICE  
FORENSIC SCIENCE DIVISION

Northville Laboratory  
42145 W. Seven Mile Rd  
Northville, MI 48167  
(248) 380-1000  
FAX (248) 380-1005

LABORATORY REPORT

Laboratory No. : KIT14-20030  
Investigating Ofcr. : Marvin Jones  
Agency : Detroit Police Department  
Agency No. : E28034496, E280344

Record No. : 1  
Date Received : December 29, 2014  
Time Received : 2:33 p.m.  
Date Completed : January 26, 2015

Nature of Offense:

1100-1 - Sexual Assault CSC 1st

Victim:

Sams, Talisha

Evidence:

The item(s) received from this case record were out-sourced to Sorenson Forensics for serological processing and further deoxyribonucleic acid (DNA) testing, if indicated. (See attached report - reference Sorenson case #SF013199)

Remarks:

The major DNA types obtained from item KIT14-20030-1-SF (Vaginal swabs - sperm fraction) have been entered into the casework database of the COmbined DNA Index System (CODIS).

Please submit a known buccal swab collected from potential donors to this case to be used for further analysis and comparisons by the DNA Unit.

Disposition of Evidence:

All DNA evidence and extracts will be returned to the submitting agency.

*Catherine T. Maggert*

Catherine T. Maggert, MS  
Forensic Scientist  
Biology Unit

January 26, 2015

cc: PA\_SAK\_Project, CIB

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Report Issued: January 30, 2015

Laboratory No.: KIT14-20030  
Agency No.: E28034496, E280344

Record No.: 1

Date of Report: January 26, 2015

  
**Sorenson Forensics**  
Date: September 02, 2014

Sorenson Case#: SF013199  
Client Case #: 96-2005

### Forensic Case Report

TO: Michigan Dept. Of State Police FSD  
Attn: Detroit Police Department  
1300 Beaubien  
Detroit, MI 48226

Offense: Criminal Sexual Conduct

Case Names:  
Talisha Sams - [Victim]

#### Evidence Received:

Sorenson Item #	Agency Item #	Description
1.0	E280344	Vaginal Swabs
2.0	E280344	Genital Gauze
3.0	E280344	Oral Swabs
4.0	E280344	Reference-Talisha Sams
5.0	E280344	Reference-Talisha Sams

#### Results Conclusions and Opinions:

##### Item 1.0 (Vaginal Swabs)

Serological testing for the presence of male DNA was positive. Testing for saliva was negative. Testing for semen was positive.

##### Item 1.0 (Vaginal Swabs-Epithelial fraction):

A mixture of DNA profiles from a minimum of two contributors was obtained from this item. The major DNA profile matches the DNA profile obtained from Talisha Sams. The minor portion of this mixture is inconclusive.

##### Item 1.0 (Vaginal Swabs-Sperm fraction):

A mixture of DNA profiles from a minimum of two contributors, at least one of which genetically types as male, was obtained from this item. The major DNA profile obtained is attributable to unknown male #1 and is suitable for comparison. The minor portion of this mixture is inconclusive.

##### Item 2.0 (Genital Gauze)

##### Item 2.1 (Alternative Light Source Positive Stain)

Serological testing for the presence of male DNA was positive. Testing for saliva was negative. Testing for semen was inconclusive.

##### Item 2.1 (Alternative Light Source Positive Stain-Epithelial fraction):

A DNA profile that genetically types as female was obtained from this item. This DNA profile matches the DNA profile obtained from Talisha Sams.

Business: 2511 S. WEST TEMPLE, SALT LAKE CITY, UT, 84115 | TOLL FREE: (888) 488-1122 | FAX: (800) 405-3168  
Evidence Intake: 2495 S. WEST TEMPLE, SALT LAKE CITY, UT, 84115 | www.sorensonforensics.com  
Page 1 of 2

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Report Issued: January 30, 2015  
Page 2

Laboratory No.: KIT14-20030  
Agency No.: E28034496, E280344

Record No.: 1

Date of Report: January 26, 2015

  
**Sorenson Forensics**  
Date: September 02, 2014

Sorenson Case#: SF013199  
Client Case #: 96-2005

**Item 2.1 (Alternative Light Source Positive Stain-Sperm fraction):**

A mixture of DNA profiles from a minimum of two contributors, at least one of which genetically types as male, was obtained from this item. The major DNA profile obtained is attributable to unknown male #1 and is suitable for comparison. The minor portion of this mixture is inconclusive.

**Item 3.0 (Oral Swabs)**

Serological testing for the presence of male DNA was negative.

**Item 4.0 (Reference-Talisha Sams)**

A complete DNA profile that genetically types as female was obtained from this item.

**Item 5.0 (Reference-Talisha Sams)**

This item was not analyzed.

**Notes:**

All submitted items, slides and DNA extracts generated during the course of examination will be returned to the submitting agency.

The DNA extracted from the items listed above was amplified using the Polymerase Chain Reaction (PCR) and typed at the loci D3S1358, TH01, D21S11, D18S51, Penta E, D5S818, D13S317, D7S820, D16S539, CSF1PO, Penta D, Amelogenin, vWA, D8S1179, TPOX, and FGA using the PowerPlex-16HS® PCR Amplification and STR Typing Kit.

Should a suspect (and/or elimination standards) become available, known reference standards (oral/buccal swabs) should be obtained and submitted.

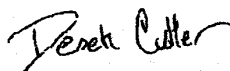
Human salivary α-amylase, a constituent of human saliva, can also be found in human urine, feces and breast milk. Additionally, the RSID®-Saliva test cross-reacts with rat saliva. This must be considered when interpreting RSID®-Saliva results.

Additional items received were not itemized or tested.

Inconclusive DNA results indicate that possible allelic activity was observed below the laboratory's analytical threshold or that portions of the DNA profile appear at such low levels that no conclusions can be drawn as to the source.

The SERATEC® Test Device for detection of the p30 antigen in semen has an internal standard that correlates with a concentration of approximately 4ng/mL of p30. An inconclusive result for this test indicates that the concentration for p30 in a questioned sample is below this internal standard concentration.

Respectfully submitted,



Derek Cutler  
Forensic DNA Analyst I

Business: 2511 S. WEST TEMPLE, SALT LAKE CITY, UT, 84115 · TOLL FREE: (866) 488-1122 · FAX: (800) 405-3168  
Evidence Intake: 2495 S. WEST TEMPLE, SALT LAKE CITY, UT, 84115 | www.sorensonforensics.com

Page 2 of 2

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Report Issued: January 30, 2015  
Page 3

## **Forensic Advantage Discovery Packet**

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### **Released Information**

Regarding: KIT14-20030 1  
Requested: 1/30/2015 FA  
3:15:01 PM  
Packet: Lab Report Only (PDF)  
Lab Report not zipped so it can be faxed.

### **Table of Contents:**

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Lab Report-Released-(17049368).pdf	1
Lab Report-Released-(17049368).pdf	

### **Additional Files:**

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The following files were included separately from the packet document:

Motion, 5-20-16, 96a

**Motion, 5-20-16**

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STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT COURT - CRIMINAL DIVISION  
16 OCT -7 PM 2:53  
THE PEOPLE OF THE STATE OF MICHIGAN  
-vs-  
ARTHUR LAROME JEMISON,  
Defendant.  
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40 COPY  
CHWJ  
16 OCT -7 PM 2:53

COURT REPORTING  
Case No. 15-10216

MOTION

Proceedings had and testimony taken before the  
Honorable ANTONIO VIVIANO, Visiting Judge of the Third Judicial  
Circuit Court, Criminal Division, at Room 603, Frank Murphy  
Hall of Justice, Detroit, Michigan, on Friday, May 20,  
2016, commencing at or about the hour of 11:45 A.M.

APPEARANCES:

LISA LOZEN

Assistant Prosecuting Attorney

Appearing on behalf of the

People of the State of Michigan

LUTHER GLENN

Appearing on behalf of Defendant

Regenia S. Veasy, C.S.R. (R-2350)

RECEIVED

OCT 13 2016

APPELLATE DEFENDER OFFICE

Processed  
Notice of Filing Sent  
10.12.16  
Clerk

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1

Detroit, Michigan

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Friday, May 20, 2016

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About 11:45 A.M.

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THE CLERK: This is Case Number 15-10216, People  
versus Arthur Jemison. This matter is before the Court  
today for a motion hearing.

8

MS. LOZEN: Good morning, Your Honor -- Lisa  
Lozen, for the People.

10

MR. GLENN: Good morning, Your Honor -- Luther  
Glenn, appearing on behalf of Mr. Jemison.

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THE COURT: Good morning.

13

Counsel, do you have any opposition to the  
Prosecution's motion?

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MR. GLENN: Absolutely, Your Honor.

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And, firstly, I would like to address the service  
of the motion. Now, on her praecipe she's indicated  
that this was personally served, and it was not and --

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MS. LOZEN: (Interposing) Judge, I can clear  
that up right now.

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THE COURT: I will everybody a chance to talk, so  
one at a time.

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MR. GLENN: Now, I received an e-mail last  
Friday, but e-mail is not personal delivery. That's  
alternative service. In order for this matter to be

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heard within seven days, I was supposed to be given personal service or to waive notice. I didn't waive notice, and I didn't get personal service, so for the proof of service to indicate that I was personally served is false

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THE COURT: Go ahead.

7

MS. LOZEN: Judge, I sent a copy of the motion by U.S. mail and I see the envelope on Defense Counsel's table. I have a copy of it. It's in my folder upstairs. Nevertheless, it was sent by U.S. mail and by e-mail.

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If you actually read the language of the personal service, it says that I served the motion by personal service on the Court and to the Defense Attorney by U.S. mail.

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THE COURT: When did you mail it to him?

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MS. LOZEN: Last Friday.

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THE COURT: What do you mean, you mailed it last Friday?

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MS. LOZEN: Last Friday, which would have been May 13.

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THE COURT: May 13th.

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MS. LOZEN: Which would be seven days from today.

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MR. GLENN: Right, not the 9th. If she sent it through the mail, I'm required -- she's required to



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1 give my nine days to get it, unless I waive, and I  
2 didn't.

3 THE COURT: I'm going to hear your motion. That's  
4 the only objection to hearing the motion. I will hear  
5 the motion. You're both here today and you both have  
6 said you have a copy of it, so I'm going to hear the  
7 motion.

8 MR. GLENN: Also, before we get to the motion, I  
9 was given a disc yesterday regarding some lab data  
10 regarding the DNA. And this was given to me by another  
11 prosecutor on another case in another courtroom. We  
12 have a trial coming up Monday. This is information that  
13 was at the lab, and for me to be getting this type of  
14 information just a few days less than a week before the  
15 trial, I object to.

16 THE COURT: I don't blame you, but what does it  
17 have do with this case?

18 MS. LOZEN: Judge, if I may?

19 MR. GLENN: Well, that's this case.

20 THE COURT: I thought you said it was a different  
21 person.

22 MR. GLENN: No, no. A different prosecutor gave  
23 me the disc on this case is another courtroom on another  
24 case yesterday. Someone in her department gave this to  
25 me. When I signed for it, I told her well the trial is

1 Monday, why am I just now getting this now. I said we  
2 have a court hearing.

3 MS. LOZEN: Judge, back in, it would have been  
4 November of 2015, I had served the Defense Attorney a  
5 6.202 notice. Michigan Court Rule 6.202, permits the  
6 admission of the lab reports in lieu of technician  
7 testimony.

8 The lab reports are a summary of everything on  
9 that disc. That disc contains, for example,  
10 electropherograms, which you need an analyst to explain  
11 those electropherograms, and so the electropherograms, to  
12 me. To someone like me who is not a forensic scientist  
13 who does not have a masters degree in genetics would not  
14 understand the contents of that disc. So, that's why  
15 they provide summaries of their reports.

16 It's the same thing if an E.R. doctor were to read  
17 an x-ray and then give a summary of an x-ray in a  
18 medical record. That summary is what is discoverable.  
19 The x-ray itself which is, again, akin like the  
20 electropherograms are, again the x-ray itself means  
21 nothing to me as my eye is not trained to view this.

22 So, again, Defense Counsel is making an issue of  
23 these reports on this disc that, number one, he never  
24 asked for and it was never in my possession. The lab  
25 had it because, again, they provided the summary which,

1 again, were the lab reports that I provided to the  
2 Defense Attorney back in November.

3 I never get these discs because, again, they mean  
4 nothing to me because you have to have an advanced  
5 degree to understand what these things mean. That's  
6 why the analyst would prepare reports to indicate to us,  
7 being the attorney and lay individuals what this  
8 information means.

9 Again, I never received the request for it. I,  
10 myself, it was never in my possession. And, again, he's  
11 had since November for these reports that summarize the  
12 information on that disc.

13 So, that being said, Judge, I, again, back in  
14 November filed these reports indicating that I intended  
15 to admit them at trial and that's one of the portions of  
16 my motion today.

17 THE COURT: Counsel, how are you prejudiced by  
18 getting this analysis?

19 MR. GLENN: Well, for 703 purposes, the reason --  
20 just because she doesn't want to look at the disc, she's  
21 precluding me from taking action for having some expert  
22 look at the --

23 THE COURT: (Interposing) Look, you're both  
24 attorneys, and as far as I'm concerned you're both fine  
25 people. I don't want to hear any nonsense.

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1           She says -- you're indicating that you got the  
2           disc late. Okay, you, got the disc late. Now, how  
3           does that prejudice you and what you want to do that  
4           that prejudices you? That's all I'm asking, not what  
5           she did or what she didn't do. I don't care. How does  
6           that prejudice you and your client?

7           MR. GLENN: Because I have to have an expert  
8           look at that material and give me an opinion and he  
9           won't be able to do that by Monday.

10          MS. LOZEN: If I may, Judge, back in February we  
11          were in front of Judge Roberson for a final conference  
12          and at that time I told Defense if he wanted an expert  
13          he should file a motion and put it front of the Court.  
14          Basically, if he wanted an expert it was really a matter  
15          of cost and fees. I really don't have standing to  
16          object to these experts.

17          I assumed because he never prepared the motion or  
18          the order that he was making a strategy move to not have  
19          an expert review this information. So, again, this  
20          was addressed back in February in front of Judge  
21          Roberson at the final conference. At that time, I told  
22          Defense to file the motion. Do it, please do it, and  
23          we will address it. And really, again, I really don't  
24          have standing to object to these matters. It's more an  
25          issue of cost which the Court has to assess.

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That being said, again, I assumed because I never received the motion for the expert, for the court to appoint an expert, I assumed that he made a trial strategy decision not to have --

THE COURT: (Interposing) There is no expert on the Defense side, is there?

MR. GLENN: Pardon me?

THE COURT: Is there an expert?

MR. GLENN: I would have to get the Court to appoint one.

MS. LOZEN: You should have filed the motion back in February.

MR. GLENN: Well, in order to do that, I still need the material as well.

Now, back when we were in front of Judge Roberson, I don't have this disc, and the only reason why I'm getting this disc now is because I'm making 703 objections to the DNA testimony because they want to summarize the information that's in the report and they want to put in information that's not in evidence and they want to summarize a lot of things that are objectionable. They want to streamline and skip over chain and custody and what people's functions on the material were and what they did to process this analysis.

2

1 Now, there's going to be an issue here where a  
2 reading on DNA, where the opinion on one of reports is  
3 from -- there was a presence of DNA from another  
4 unknown black male --

5 MS. LOZEN: (Interposing) I'm objecting to that  
6 characterization of what the lab reports says. That's  
7 not what the report says.

8 THE COURT: Counsel, do me a favor. If you're  
9 going to object, write it down someplace, because I  
10 can't take two people talking.

11 Mr. Glenn, I understand that. My question to you,  
12 you have to file a motion for an expert.

13 MR. GLENN: Okay.

14 THE COURT: When is the trial set in this matter?

15 MR. GLENN: Monday.

16 THE COURT: The trial is sit for Monday?

17 MR. GLENN: Right.

18 THE COURT: Before the Court can consider a  
19 motion -- I mean for an expert, first you have to  
20 file a motion. If you didn't file a motion, the Court  
21 would expect that you're not filing one. This is  
22 Friday and Monday is coming up and there is still no  
23 motion for an expert.

24 MR. GLENN: And if I didn't file a motion, they  
25 wouldn't be -- whether we're talking about the

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1 evidence from the DNA disc, from the DNA analysis, they  
2 wouldn't be giving me the disc, and the reason why I'm  
3 saying this is because there are issues here that I'm  
4 going to take up with the expert in this matter.

5 THE COURT: I have no problem with any of what  
6 you're saying. The only thing is it's so late coming on  
7 Friday before trial on Monday.

8 MR. GLENN: Okay.

9 THE COURT: That's the problem.

10 MR. GLENN: I will deal with getting the disc  
11 when I got the disc, all right, but I'm objecting to it,  
12 to getting it now because I should have gotten this at  
13 the same time I got the lab report. So, you know, with  
14 that being said, that's all I have to say about the  
15 disc. I just got it, and so I'll deal with it.

16 THE COURT: All right.

17 MS. LOZEN: The only thing I can add, Judge, is  
18 if he had asked for the disc, or if I had gotten an  
19 order for an expert, it would have been provided back in  
20 February. Again, I didn't have it in my file and so --

21 THE COURT: (Interposing) You don't have to say  
22 the same thing. I mean, I know I'm an old man but I do  
23 remember what happened five minutes ago.

24 I'm going to allow the laboratory reports to come  
25 into evidence without the expert.

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MS. LOZEN: Thank you, Judge.

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THE COURT: Now, the second motion, the video testimony of some forensic people, what is your position on that?

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MR. GLENN: Well, with respect to getting back to the reports, the reports that were noticed up previously were the preliminary lab reports. They weren't the second lab reports. These were done for the CODIS hit. This wasn't done from the buccal swab.

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MS. LOZEN: Judge, if I may?

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MR. GLENN: And that's the part I'm saying is, what was noticed up at the Preliminary Examination, that was a DNA report that gave probable cause to take a buccal swab from my client and do another hands-on DNA analysis. That wasn't noticed up.

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Now, if the Prosecutor is saying that well, there's probable cause, it was a CODIS hit, well, yeah, fine, I know there's a CODIS hit. I don't have an issue with that. The thing is for the second set of reports that are coming through, that wasn't noticed up.

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MS. LOZEN: Judge, if I may?

THE COURT: Yes?

MS. LOZEN: I attached to my motion the Record 1 and Record 2. Record 3 I did not attach to my motion because that was authored by an analyst by the name of



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1 Catherine Maggert, M-a-g-g-e-r-t. Miss Maggert is a  
2 forensic scientist with the Michigan State Police, and  
3 Miss Maggert is an endorsed witness on my witness list.  
4 I do intend to call her at trial. Miss Maggert will be  
5 able to explain her final conclusions about the reports.

6 So, I intend to admit Record 1 and Record 2, which  
7 were attached to my motion and which I did provide 6.202  
8 notice, Michigan Court Rule 6.202, and then I intend to  
9 have Miss Maggert explain what -- so, I'm going to  
10 admit them into evidence and then I'm going to have Miss  
11 Maggert explain to us what they mean. And, so that's my  
12 intention.

13 So, I am not skipping anybody or anything, but I'm  
14 simply having one analyst, one Michigan state police  
15 analyst give her expert opinion about her final  
16 conclusions.

17 MR. GLENN: Now, with respect to the final  
18 chemist giving her opinion, now I didn't waive chain and  
19 custody in this matter either. The reports are one  
20 thing, and chain and custody is another thing.

21 Now, respect to the material that was being sent  
22 through and being processed, who did what and when, and  
23 why, that is not a --

24 THE COURT: (Interposing) That's the third  
25 issue?

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MS. LOZEN: That's correct, Judge.

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MR. GLENN: That's the third issue.

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THE COURT: Chain and custody.

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Right, I just want to deal with one issue at a time, and that is the testimony of the -- we're on Number 2, which is the video testimony of the two experts, and the third you're bringing in?

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MS. LOZEN: The third is going to be a live witness, that's correct. The other analyst by the name of Derek Cutler from Sorenson Forensics is out of Utah, and if his testimony becomes necessary and -- he's a witness on my list but he's not endorsed. So, if his testimony becomes necessary, I would then have him available by the video.

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THE COURT: That's all we're asking, Mr. Glenn, is there any objection to the use of the video?

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MR. GLENN: Yes.

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All experts, any expert in a case I'm not going to stipulate to being done by video. There are reports and physical evidence they may have to look at and explain and that simply can't be done via video. So, any type of video conferencing -- this is a courtroom, my client has a right to have all of his witnesses appear in court. We would not stipulate or waive the presence of any witness in court, especially the experts.

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THE COURT: All right. As far as you're talking about, and of course, I have to say exactly the opposite, usually a lay witness it's very difficult having a video, but of an expert witness where all emotions are gone, that is admissible.

You're only talking about this forensic analyst or DNA analyst, Derek Cutler?

MS. LOZEN: That's correct, Judge.

THE COURT: Anything that has to be shown to him, can be shown to him. They have the different electronic devices in passing it back and forth.

So, I'm going to grant the motion of the Prosecutor and allow her to take testimony from the DNA analyst Derek Cutler by video.

MR. GLENN: Okay.

THE COURT: Now, the third issue that you have on this, the chain and custody, and you're not talking if he doesn't waive chain and custody to be absolutely correct and you have to prove it. All you're asking in Number 3 is the witness who you need for chain and custody.

Is that how I take it?

MS. LOZEN: That's correct, Judge. There is a Sergeant David Dehem.

THE COURT: Any objection.

4

1

MR. GLENN: Pardon?

2

THE COURT: The third thing, she's not talking about waiving the chain and custody. She's talking about proving chain and custody, and apparently I guess she thought you may waive it. Since you are not waiving it, she's asking for the addition of some witnesses would have to testify as to chain and custody.

8

Do you have any objection?

9

MR. GLENN: If they have chain and custody witnesses being added to the witness list, I don't have any objection.

12

THE COURT: Okay.

13

I'm granting that part of your motion, the third part for you to add those witnesses, give them notice of those witnesses who they are for the chain and custody.

15

16

MR. MS. LOZEN: Thank you, Judge.

17

THE COURT: Good luck.

18

Now, you're going to be here Monday for trial?

19

MS. LOZEN: Yes, Judge.

20

THE COURT: Okay.

21

MS. LOZEN: Do you want the written order or are you satisfied with just your oral comments on the record?

23

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THE COURT: Make sure you show it to Counsel, and make sure that is according to what the Court has ruled

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in this case.

This is Jemison, right?

MR. GLENN: Yes.

THE COURT: All right.

MS. LOZEN: Thank you, Judge. And may I  
approach?

THE COURT: Yes, you may.

MR. GLENN: Thank you, Your Honor.

THE COURT: Thank you.

(At about 12:00 P.M. - proceedings  
concluded.)

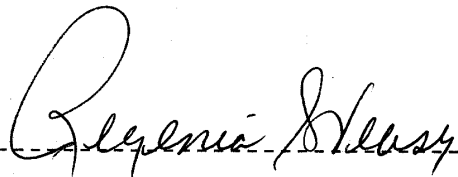
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CERTIFICATION OF COURT REPORTER

STATE OF MICHIGAN       )  
  )       ss.  
COUNTY OF WAYNE       )

I, REGENIA S. VEASY, CSR-2350, an Official Court Reporter in and for the Third Judicial Circuit Court, Criminal Division, State of Michigan, do hereby certify that the foregoing pages 1 through 17, inclusive, were prepared by me in the matter of ARTHUR LAROME JEMISON, Case Number 15-10216, on Friday, May 20, 2016, and was reduced to typewritten form by means of Computer-assisted Transcription, and comprise a full, true and accurate transcript of the proceedings had in the above-entitled cause.

  
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Official Court Reporter

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Oct. 7 2016

Date

**Trial Court Order, 5-20-16**

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STATE OF MICHIGAN  
IN THE THIRD CIRCUIT COURT, COUNTY OF WAYNE  
CRIMINAL DIVISION

---

PEOPLE OF THE STATE OF MICHIGAN

Hon. Ulysses Boykin

V.

Case No. 15-010216

ARTHUR JEMISON

Lisa M. Lozen P74180  
Assistant Prosecuting Attorney  
Wayne County Prosecutor's Office  
1441 St. Antoine  
Detroit, MI 48226  
313-224-2540

Luther W. Glenn P38683  
Attorney for Defendant  
9930 Nardin Park Dr Fl 2  
Detroit, MI 48204  
248-974-5526

---

**ORDER**

At a session of said Court, held in the City of Detroit

County of Wayne, State of Michigan

On: MAY 20 2016

PRESENT: Antonio Viviano

Circuit Court Judge

The Court, having been apprised of the facts contained in the People's Motion in Limine, grants the People's Motion. The Court orders:

1. To admit at trial laboratory report KIT14-20030 Record 1 and 2 pursuant to MCR 6.202.
2. To permit video testimony of Forensic DNA Analyst Derek Cutler pursuant to MCL 766.11a.
3. To amend the People's witness list to include Sgt. David Dehem.

Antonio P. Viviano  
Circuit Court Judge  
P21848



Trial, 5-23-16, 116a

**Trial, 5-23-16**

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION  
THE PEOPLE OF THE STATE OF MICHIGAN,  
vs.  
ARTHUR LAROME JEMISON,  
Defendant.  
File No. 15-010216  
Jury Trial

PROCEEDINGS TAKEN in the  
above-entitled cause, before the HONORABLE DALTON  
ROBERSON, Judge of the 3rd Judicial Circuit Court, City  
Of Detroit, at Frank Murphy Hall of Justice, Courtroom  
603, Detroit, Michigan, on May 23, 2016.

APPEARANCES:

LISA LOZEN, Assistant Wayne County Prosecutor, appearing on behalf of the People.

LUTHER GLENN, Attorney-at-Law, appearing on behalf of the Defendant.

\* \* \*

BRION CORY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribed by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

RECEIVED

NOV 21 2016

APPELLATE DEFENDER OFFICE

COURT REPORTING

NOV 15 AM 8:10  
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May 23, 2016

Detroit, Michigan

10:00 A.M.

\* \* \*

(10:00 A.M. the prospective jury panel  
Was brought into the courtroom)

COURT CLERK: Okay. This is Case Number  
15-10216, People of the State of Michigan versus Arthur  
Jemison. This matter is before the Court today for a  
jury trial.

THE COURT: All right. Good morning,  
ladies and gentlemen of the Jury.

JURY (In unison): Good morning.

THE COURT: Ladies and gentlemen of the  
Jury, my name is Dalton Roberson. I am not Judge Ulysses  
Boykin which is the name that you see on the door out  
there. I'm sitting as a visiting Judge after having  
retired and have been brought back to help out so don't  
get yourself confused and wondering who Boykin is and who  
I am, okay.

All right. Ladies and gentlemen of the  
Jury, I know that when you all got that slip saying you  
all were to come down here wasn't the most joyous day in  
your year because there was probably a lot of other

1 things you could have done or could be doing, that you  
2 would rather be doing than being down here today, but  
3 less me stress to you that your presence here is  
4 extremely important to the function of the criminal  
5 justice system in this state and in this country.

6 You are an important and vital segment of  
7 the criminal justice system. It is an important function  
8 that you are to perform today because when a person is  
9 charged with a crime or when the prosecutor charges a  
10 person with a crime the Defendant and the prosecutor is  
11 entitled to a jury of their peers and when I say that, it  
12 means that you are going to be called to judge a fellow  
13 person, a fellow citizen, of the country as to their  
14 guilt or innocence.

15 You're the sole judge of the facts of the  
16 case. Neither I nor either side in this case intend to  
17 usurp that duty from you, but as to the law, ladies and  
18 gentlemen of the Jury, you have to take it as I give it  
19 to you.

20 You must be as humanly impartial as you  
21 can possibly be. During the course of selection in  
22 trying to get a fair jury some questions are going to be  
23 asked of you. These questions are not asked simply to  
24 pry into your personal life, but is an important for both  
25 counsel and myself to find out something about you to

1 make a determination as to whether or not you would be  
2 competent to serve in this particular case.

3 It does not determine your qualification  
4 to serve as jurors on this case. There might be  
5 something about the facts of this case that you wouldn't  
6 like to sit in judgment on somebody about because it's  
7 too -- because something that has happened in your life  
8 span or to somebody in your life span who -- it brings  
9 back -- causes memories to flow back and that's not what  
10 we want to happen.

11 We want the case to be decided solely on  
12 the basis of the facts that are elicited from the witness  
13 stand and you to judge on that basis. If you do not hear  
14 a question that is asked of you either by myself or by  
15 the attorneys please let us know and we will have the  
16 question repeated to you.

17 Ladies and gentlemen of the Jury, there  
18 are two kind of challenges in a trial. It's a peremptory  
19 challenge and this process is what we call the voir dire  
20 examination, to seek the truth. The voir dire  
21 examination is an opportunity for the lawyers to ask you  
22 questions as I've explained about your background and  
23 then they're allowed to exercise what we call a  
24 peremptory challenge.

25 A peremptory challenge means that the

1 lawyers can excuse you from this case and do not have to  
2 tell either side or myself the reason they are doing it.  
3 They are given so many of 'em and they can exercise them  
4 as they sit fit.

5 A challenge for cause means that in the  
6 course of asking questions about your background they  
7 find that there's something -- or I find that there's  
8 something in your background that would make you  
9 regularly not qualified to serve on this particular  
10 occasion.

11 Those are the two differences. Now,  
12 ladies and gentlemen of the Jury, I'm going to ask you to  
13 rise and the Clerk will swear you.

14 COURT CLERK: Raise your right hand.

15 (10:05 A.M. the prospective jury panel  
16 Was sworn in by the Court Clerk as  
17 Follows)

18 COURT CLERK: Do all of you solemnly swear  
19 or affirm to answer truthfully all questions put to you  
20 touching upon your qualifications to serve as jurors?

21 JURY (In unison): I do.

22 THE COURT: Okay. Now, ladies and  
23 gentlemen of the Jury, I have introduced myself to you.  
24 Let me introduce some parties to you. The lawyers for  
25 the Defendant is -- we called the case, didn't we?

1 COURT CLERK: Yes.

2 THE COURT: Okay. Mr. Luther Glenn is the  
3 lawyer for the Defendant. Mr. Glenn, would you stand up  
4 and face the jury so they can see you and also introduce  
5 your client to 'em.

6 MR. GLENN: Good morning, everyone.

7 JURY (In unison): Good morning.

8 MR. GLENN: My name is Luther William  
9 Glenn, Jr. I'm a criminal defense lawyer and during this  
10 trial will be representing my client, Mr. Arthur Jemison.

11 THE COURT: Mr. Prosecutor.

12 MS. LOZEN: Good morning, everyone. My  
13 name is Lisa Lozen and I represent the People of the  
14 State of Michigan and next to me is my officer in charge  
15 who's standing in right now. His name is Patrick Moug.  
16 He's a detective with the Wayne County Sheriffs  
17 Department and he's currently standing in. My original  
18 officer in charge is in another trial and his name is  
19 Mike Sabo and he'll be joining us shortly. Thank you.

20 THE COURT: All right. Now, ladies and  
21 gentlemen of the Jury, the witnesses that the prosecution  
22 has indicated that they're going to call is Miss Talisha  
23 Sams Dowe, Lashawn Cooper, Andre Sams, Elemuel  
24 Crankfield, Doctor Kreshner and Catherine Maggert. Do  
25 any of those names ring a bell to you, to anyone seated



1 out there?

2 (No response)

3 THE COURT: Okay. We think that this  
4 trial will probably last how long, counsel? How long do  
5 you think?

6 MS. LOZEN: Two days, Judge.

7 THE COURT: What about you, Mr. Glenn?

8 MR. GLENN: Two and a half days.

9 THE COURT: Two and a half days? Okay.  
10 Is there any of you out there that if this case lasts  
11 three days would cause you any difficulty that would make  
12 you stop worrying about the case and start worrying about  
13 something else?

14 (Hands raised)

15 THE COURT: Ma'am, would you raise your --  
16 hold it. Not everybody raise their hand at the same  
17 time. Young lady, you were the first one. Stand up and  
18 tell us your name loud.

19 PROSPECTIVE JUROR: My name is Ana Garza.

20 THE COURT: All right. What is the reason  
21 for you thinking that it would cause you such a problem?

22 PROSPECTIVE JUROR: I have a two year old  
23 son who I don't have a babysitter for.

24 THE COURT: Who is he with today?

25 PROSPECTIVE JUROR: With his father who

1 had to take the day off from work.

2 THE COURT: He had to take the day off  
3 from work?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: You don't have a mother or a  
6 mother-in-law or somebody you can leave your son with?

7 PROSPECTIVE JUROR: No, my mother works,  
8 also.

9 THE COURT: The problem I have with that,  
10 Mrs. Garza, is if everybody here -- not everybody, but a  
11 lot of these people would have problems like that and  
12 it's not a sufficient reason to excuse you. So I'm going  
13 to have to deal with that at a later stage, okay. Who is  
14 the next person?

15 (Hands raised)

16 THE COURT: Yes, sir. Give us your name,  
17 sir.

18 PROSPECTIVE JUROR: My name is John  
19 Nehila.

20 THE COURT: Mr. Nehila, what's the  
21 problem?

22 PROSPECTIVE JUROR: I just recently got a  
23 new job after nine years and I'm raising two grand kids.  
24 I need the money.

25 THE COURT: Well, we going to pay you.

1 PROSPECTIVE JUROR: But I need --  
2 THE COURT: It's not much like your job.  
3 PROSPECTIVE JUROR: Well, I know, but it's  
4 the kids there.  
5 THE COURT: Well, we'll have to deal with  
6 that later, too.  
7 PROSPECTIVE JUROR: Yeah.  
8 THE COURT: Anybody else?  
9 (Hand raised)  
10 THE COURT: Yes, sir.  
11 PROSPECTIVE JUROR: My name is Genaro  
12 Murillo. I am scheduled to start a new job tomorrow.  
13 THE COURT: You got to call 'em and tell  
14 us you can't be there tomorrow.  
15 PROSPECTIVE JUROR: Okay.  
16 THE COURT: All right. Who else?  
17 (Hand raised)  
18 THE COURT: Yes, ma'am. Give us your  
19 name.  
20 PROSPECTIVE JUROR: Nolita Rice.  
21 THE COURT: Yes.  
22 PROSPECTIVE JUROR: They not paying me  
23 enough for this. I get more on my job.  
24 THE COURT: Well, ma'am, everybody --  
25 but --

1 PROSPECTIVE JUROR: I have bills.

2 THE COURT: Huh?

3 PROSPECTIVE JUROR: I have very big bills,  
4 obligations that needs to -- if I was off two days that's  
5 going to really put me behind.

6 THE COURT: Ma'am, that's not a reason.

7 PROSPECTIVE JUROR: Okay.

8 THE COURT: Okay. Okay. All right. You  
9 may start seating.

10 COURT CLERK: Okay. Young, Daniela,  
11 Y-o-u-n-g, seat number one. Young, seat number one.

12 COURT OFFICER: This way, ma'am.

13 COURT CLERK: Gorski, G-o-r-s-k-i,  
14 Theresa, seat number two. Gable, G-a-b-l-e, Kineret,  
15 seat number three. Stevens, S-t-e-v-e-n-s, Dorothy, seat  
16 number four. Last name is called A-n-d-r-z-y-c-z-a-k,  
17 Anthony, seat number five. Rogala, R-o-g-a-l-a, Eric,  
18 seat number six. Mems, M-e-m-s, Elbert, seat number  
19 seven. Kamaledine, K-a-m-a-l-e-d-d-i-n-e, Manal, seat  
20 number eight.

21 Lachapelle, L-a-c-h-a-p-e-l-l-e, Jeffrey,  
22 seat number nine. Murillo, M-u-r-i-l-l-o, Genaro, seat  
23 number ten. Kelly, K-e-l-l-y, seat number eleven, David.  
24 Hollis, H-o-l-l-i-s, Anna, seat number twelve. Atkinson,  
25 A-t-k-i-n-s-o-n, Monica, seat number thirteen. McKinney,

1 M-c-K-i-n-n-e-y, Cierra, seat number fourteen.

2 THE COURT: Okay. All right. Ladies and  
3 gentlemen of the Jury, I did not ask the question while  
4 you were still seated in the audience, but I'm going to  
5 ask it now, but I'm going to ask that only the jurors  
6 that are seated in the box respond.

7 If the jurors who are still seated in the  
8 audience, if you would answer in the affirmative to the  
9 question just hold it and then if you're subsequently  
10 called into the box we'll go back over it, okay.

11 Do any of you have any health issues which  
12 you think would keep you from being able to hear this  
13 case? Let me tell you, I work from nine to two and we  
14 take about a thirty minute break at twelve o'clock. I've  
15 discovered a long, long time ago that we get more  
16 testimony in than taking all of these breaks along the  
17 day and having you all come back cause every time we take  
18 a ten minute break it stretches into a twenty-five or  
19 thirty minute break, okay.

20 So that's how we work. So if any of you  
21 have any child care issues other than what the lady had  
22 out there in the audience, like meeting the school bus  
23 when your kids are dropped off -- and we start at about  
24 nine fifteen so that would give you an opportunity to do  
25 whatever you have to do with them in the morning on the

1 bus and you'll be back to catch 'em in the evening when  
2 they get off the bus, okay.

3 Now, do any of you have any health  
4 questions which you think would cause you not to give the  
5 full and undivided attention to this case?

6 (No response)

7 THE COURT: All right. Now, ladies and  
8 gentlemen of the Jury, I'm going to read to you a  
9 document called an Information. An Information is what  
10 is -- an Information is what is known in the law as a  
11 charging document.

12 It is the document that the prosecutor  
13 furnishes for the Defendant and his lawyer to inform them  
14 of the charges that are being lodged against them. At no  
15 time are you to consider this as evidence. The reason  
16 that you are here today is because the Defendant, through  
17 his lawyer, plead not guilty. Therefore, he has created  
18 an issue of fact and the issue of fact for you to  
19 determine is the guilt or innocence of the Defendant.

20 Ladies and gentlemen of the Jury, you are  
21 the sole judges of the facts. Neither I nor either  
22 counsel can usurp that duty from you. You are not here  
23 to please anyone. You are not here to judge other things  
24 other than the facts of this case.

25 You are not here to solve the crime

1 problem of the country. You are here solely to judge the  
2 innocence or guilt of the Defendant who is seated before  
3 you through his lawyer, okay.

4 All right. This Information charges in  
5 Count I that on or about the 14th of September, in 1996  
6 at Weyher and McClellan, in the city of Detroit, the  
7 Defendant, Mr. Arthur Larome Jemison, did engage in  
8 sexual penetration; to-wit, penis into genital opening  
9 with Talisha Sams Dowe under the following circumstances,  
10 during the commission of the felony of kidnapping while  
11 the Defendant was armed with a weapon or any other  
12 article used or fashioned in a manner to lead the victim  
13 to reasonably believe it to be a weapon.

14 In Count II the Defendant is charged with  
15 criminal sexual conduct in the first degree and that he  
16 did engage in sexual penetration; to-wit, fellatio, with  
17 Talisha Sams Dowe, D-o-w-e, under the following  
18 circumstances, during the commission of the felony of  
19 kidnapping or the Defendant was armed with a weapon or  
20 any article used or fashioned in a manner to lead the  
21 victim to reasonably believe it to a weapon, contrary to  
22 the laws of the state of Michigan.

23 Those are the charges that have been  
24 lodged against Mr. Jemison and he has plead not guilty to  
25 those charges. Therefore, he has created an issue of

1 fact for you to determine.

2 Now, ladies and gentlemen of the Jury,  
3 when a Defendant is brought into court and charged with a  
4 crime the moment that he is charged the presumption of  
5 innocence attached to him and that presumption remains  
6 with him until you, and each of you, have reached a  
7 verdict as to his guilt.

8 If you do not reach a verdict as to his  
9 guilt then the presumption of innocence is not removed.  
10 That means that the prosecutor has to convince you beyond  
11 a reasonable doubt as to each and every element -- ma'am,  
12 please, I'll get back to you -- as to each and every  
13 element of the offense and if she doesn't then you have  
14 to find the Defendant not guilty.

15 On the other hand, if the prosecutor  
16 convinces you beyond a reasonable doubt -- and when I say  
17 beyond a reasonable doubt I don't mean any doubt. I mean  
18 a doubt for which you can assign a reason, and if all of  
19 you reach that decision as a group, then the presumption  
20 of innocence is removed and, as I indicated to you, a  
21 reasonable doubt is a honest, fair doubt, a reason by  
22 which you can assign a reason to, not just some notion  
23 that you have, okay. All right. Okay. Ma'am, had you  
24 your hand raised.

25 PROSPECTIVE JUROR NUMBER THIRTEEN: I



1           can't --

2                       THE COURT: I can't hear you, ma'am.

3                       PROSPECTIVE JUROR NUMBER THIRTEEN: I  
4           can't sit through this. I've been the victim of this and  
5           I can't.

6                       THE COURT: Okay. Counsel, I will excuse  
7           her if you have no objection.

8                       MS. LOZEN: That's fine, Judge.

9                       THE COURT: Okay.

10                      MR. GLENN: No objection.

11                      THE COURT: Okay. You may step down.

12                      COURT CLERK: That's number thirteen.

13                      PROSPECTIVE JUROR NUMBER FOUR: That would  
14           be me, also.

15                      THE COURT: Okay. I'll have to let you  
16           step down, too. You've been the victim of some kind of  
17           assault?

18                      PROSPECTIVE JUROR NUMBER FOUR: Yes.

19                      THE COURT: Okay. You'll have to go back  
20           to the first floor, ma'am. That didn't take long, did  
21           it?

22                      COURT CLERK: Okay. Embry-Barnes,  
23           Frances, E-m-b-r-y B-a-r-n-e-s, Embry-Barnes, seat number  
24           thirteen. Fishback, F-i-s-h-b-a-c-k, Pamela, seat number  
25           four.

1 THE COURT: All right. Starting with  
2 juror number one, would you give us your name again,  
3 ma'am.

4 PROSPECTIVE JUROR NUMBER ONE: Daniela  
5 Young.

6 THE COURT: Miss Young, are you married?

7 PROSPECTIVE JUROR NUMBER ONE: No.

8 THE COURT: Okay. What type of work are  
9 you involved in?

10 PROSPECTIVE JUROR NUMBER ONE: I'm a  
11 dental assistant.

12 THE COURT: Okay. Have you, a close  
13 friend or relative of yours, ever been the victim of a  
14 crime?

15 PROSPECTIVE JUROR NUMBER ONE: No.

16 THE COURT: Do you have any close friends  
17 or relatives or friends who have been charged with a  
18 crime?

19 PROSPECTIVE JUROR NUMBER ONE: Yes, I do.

20 THE COURT: What happened?

21 PROSPECTIVE JUROR NUMBER ONE: My father  
22 was charged with -- charged with I guess touching one of  
23 my friends, found innocent.

24 THE COURT: Okay. How long ago was that?

25 PROSPECTIVE JUROR NUMBER ONE: I was

1 about twelve so about ten years ago.

2 THE COURT: Okay. Can you put that out of  
3 your mind and be a fair and impartial juror?

4 PROSPECTIVE JUROR NUMBER ONE: Yes.

5 THE COURT: You understand that that has  
6 nothing to do with this case? Do you understand that?

7 PROSPECTIVE JUROR NUMBER ONE: Yes.

8 THE COURT: You cannot hold that against  
9 the prosecutor or the defense in this case. Do you  
10 understand that?

11 PROSPECTIVE JUROR NUMBER ONE: Yes.

12 THE COURT: Can you do that?

13 PROSPECTIVE JUROR NUMBER ONE: Yes, sir.

14 THE COURT: Okay. Your name, ma'am?

15 PROSPECTIVE JUROR NUMBER TWO: Theresa  
16 Gorski.

17 THE COURT: Miss Gorski, what type of work  
18 are you involved in, if it's outside the home?

19 PROSPECTIVE JUROR NUMBER TWO: I'm  
20 self-employed. I do social media for small businesses.

21 THE COURT: Okay. Are you married?

22 PROSPECTIVE JUROR NUMBER TWO: Yes, I am.

23 THE COURT: Your husband's employment?

24 PROSPECTIVE JUROR NUMBER TWO: He works at  
25 Apple.

1 THE COURT: Apple?

2 PROSPECTIVE JUROR NUMBER TWO: Yeah, at  
3 Somerset.

4 THE COURT: Oh, okay. Where they sell all  
5 them forty phones that I can't operate?

6 PROSPECTIVE JUROR NUMBER TWO: Yes.

7 THE COURT: I have a ten year old niece, a  
8 grandchild, that I go to whenever I have stuff on my  
9 phone that I need done and she can do it for me.

10 PROSPECTIVE JUROR NUMBER TWO: He could  
11 probably help you if you go in.

12 THE COURT: Yeah. The other question that  
13 I didn't ask you, juror number one, do you have any close  
14 friends or relatives that are a member of a law  
15 enforcement agency?

16 PROSPECTIVE JUROR NUMBER ONE: No, your  
17 Honor.

18 THE COURT: Okay. Have you, a close  
19 friend or relatives of yours ever been the victim of a  
20 crime, Miss Gorski?

21 PROSPECTIVE JUROR NUMBER TWO: Stolen car.

22 THE COURT: That's a crime.

23 PROSPECTIVE JUROR NUMBER TWO: That's a  
24 crime.

25 THE COURT: Was anyone ever arrested for

1           that?

2                           PROSPECTIVE JUROR NUMBER TWO:   Like my car  
3           was stolen.

4                           THE COURT:   Okay.

5                           PROSPECTIVE JUROR NUMBER TWO:   So, no.

6                           THE COURT:   And the police never arrested  
7           anyone?

8                           PROSPECTIVE JUROR NUMBER TWO:   No.

9                           THE COURT:   You never appeared in court?

10                          PROSPECTIVE JUROR NUMBER TWO:   No.

11                          THE COURT:   Can you put that out of your  
12           mind?

13                          PROSPECTIVE JUROR NUMBER TWO:   Oh, yeah.

14                          THE COURT:   You understand that has  
15           nothing to do with this case and you can't be mad with  
16           the prosecutor because they didn't arrest anyone or  
17           charge anyone and you can't be -- you can't say to the  
18           Defendant, I'm going to solve the crime problem. Do you  
19           understand that?

20                          PROSPECTIVE JUROR NUMBER TWO:   Yes, I do.

21                          THE COURT:   Okay.   And can you do that?

22                          PROSPECTIVE JUROR NUMBER TWO:   Yes.

23                          THE COURT:   Okay.   Juror number three,  
24           your name, ma'am.

25                          PROSPECTIVE JUROR NUMBER THREE:   Kineret

1 Gable.

2 THE COURT: Miss Gable, are you employed  
3 outside the home?

4 PROSPECTIVE JUROR NUMBER THREE: Yes.

5 THE COURT: What type of work?

6 PROSPECTIVE JUROR NUMBER THREE: I am a  
7 library director at Honigman, Miller, Schwartz and Cohn.

8 THE COURT: So you work for the big law  
9 firm over there?

10 PROSPECTIVE JUROR NUMBER THREE: Yeah.

11 THE COURT: Is your husband employed?

12 PROSPECTIVE JUROR NUMBER THREE: He is.

13 THE COURT: Is he a lawyer?

14 PROSPECTIVE JUROR NUMBER THREE: He's the  
15 associate dean at Wayne State University.

16 THE COURT: Law school?

17 PROSPECTIVE JUROR NUMBER THREE: Law  
18 school.

19 THE COURT: What's his name?

20 PROSPECTIVE JUROR NUMBER THREE: Lance  
21 Gable.

22 THE COURT: I was just down there about a  
23 month ago participating in a panel and I went to that  
24 graduation.

25 PROSPECTIVE JUROR NUMBER THREE: I was at

1           their graduation.

2                       THE COURT: I was, too. Yeah, my daughter  
3 graduated from that law school. I didn't. Being that  
4 you work around lawyers and your husband's a lawyer you  
5 can't let them tell you what the law is in this case.  
6 You have to let me tell you. Do you understand that?

7                       PROSPECTIVE JUROR NUMBER THREE: Yes.

8                       THE COURT: Can you do that?

9                       PROSPECTIVE JUROR NUMBER THREE: Yes.

10                      THE COURT: Okay. I know that working  
11 around lawyers and working with libraries in the law you  
12 gained some insight, but that you have to rely solely on  
13 me. I'm the smartest one in the building as to the law.  
14 Do you understand that?

15                      PROSPECTIVE JUROR NUMBER THREE: Yes.

16                      THE COURT: You're the smartest one as to  
17 the facts. Do you understand that?

18                      PROSPECTIVE JUROR NUMBER THREE: Yes.

19                      THE COURT: Okay. Have you, a close  
20 friends or relative ever been the victim of a crime?

21                      PROSPECTIVE JUROR NUMBER THREE: I was  
22 mugged.

23                      THE COURT: How long ago was that?

24                      PROSPECTIVE JUROR NUMBER THREE: About  
25 sixteen years ago.

1 THE COURT: Was anyone arrested for it?  
2 PROSPECTIVE JUROR NUMBER THREE: Yes.  
3 THE COURT: Did you have to appear in  
4 court?  
5 PROSPECTIVE JUROR NUMBER THREE: I did  
6 not.  
7 THE COURT: Do you know what happened to  
8 the case?  
9 PROSPECTIVE JUROR NUMBER THREE: I don't.  
10 It was a juvenile, so.  
11 THE COURT: Oh, so it went through the  
12 juvenile system?  
13 PROSPECTIVE JUROR NUMBER THREE: Yes.  
14 THE COURT: Can you put that out of your  
15 mind and be a fair and impartial juror?  
16 PROSPECTIVE JUROR NUMBER THREE: Yes.  
17 THE COURT: Okay. Do you have any close  
18 friends or relatives or members in a law enforcement  
19 agency?  
20 PROSPECTIVE JUROR NUMBER THREE: No.  
21 THE COURT: Okay. All right. Juror  
22 number -- I see -- what's that on your jacket?  
23 PROSPECTIVE JUROR NUMBER FOUR: Western  
24 Michigan.  
25 THE COURT: Well, we won't hold that



1           against you. I thought it was Michigan. I won't hold it  
2           against you. What type of work are you involved in  
3           outside the home, ma'am?

4                       PROSPECTIVE JUROR NUMBER FOUR: I'm  
5           retired.

6                       THE COURT: From what type of work?

7                       PROSPECTIVE JUROR NUMBER FOUR: I was a  
8           secretary.

9                       THE COURT: Okay. In what type of  
10          business?

11                      PROSPECTIVE JUROR NUMBER FOUR: College.

12                      THE COURT: Okay. All right. It wasn't  
13          western, was it?

14                      PROSPECTIVE JUROR NUMBER FOUR: No.

15                      THE COURT: All right. And are you  
16          married?

17                      PROSPECTIVE JUROR NUMBER FOUR: Yes, I am.

18                      THE COURT: Your husband's employment, if  
19          he's not retired?

20                      PROSPECTIVE JUROR NUMBER FOUR: Yes, he is  
21          employed with the railroad.

22                      THE COURT: Okay. He doesn't drive one of  
23          those big engines, does he?

24                      PROSPECTIVE JUROR NUMBER FOUR: Yes, he  
25          does.

1 THE COURT: I've always been jealous of  
2 those people. That looks like such an interesting job  
3 riding along, you know, seeing the countryside. Okay.  
4 Have you, a close friend or relatives of yours ever been  
5 the victim of a crime?

6 PROSPECTIVE JUROR NUMBER FOUR: No.

7 THE COURT: Do you have any close friends  
8 or relatives that are members of a law enforcement  
9 agency?

10 PROSPECTIVE JUROR NUMBER FOUR: I was  
11 married to a police officer for seventeen years.

12 THE COURT: Long ago?

13 PROSPECTIVE JUROR NUMBER FOUR: Yes.

14 THE COURT: Okay. Is there anything about  
15 your marital experience with a police officer that you  
16 think would interfere with you hearing this case?

17 PROSPECTIVE JUROR NUMBER FOUR: I don't  
18 think so.

19 THE COURT: Okay. Let me tell you this,  
20 and this goes to all of the jurors, you're going to be  
21 instructed when a police officer testifies you're to give  
22 his testimony the same weight and credibility as you  
23 would any other witness. You're not to believe him  
24 simply because he's a police officer. You're not to  
25 disbelieve him simply because he's a police officer. Do

1           you understand that?

2                       PROSPECTIVE JUROR NUMBER FOUR: Yes.

3                       THE COURT: All right. Can you do that,  
4           ma'am?

5                       PROSPECTIVE JUROR NUMBER FOUR: Yes.

6                       THE COURT: Okay.

7                       PROSPECTIVE JUROR NUMBER FOUR: I just  
8           need to make you aware I do wear two hearing aids and it  
9           takes me a few minutes to process and I need to be  
10          looking at people that are speaking.

11                      THE COURT: Well, you're going to be able  
12          to look at them and I talk loud enough for everybody to  
13          hear, okay. And I think that the lawyers do, too, okay.  
14          All right. Juror number five, that's you, sir.

15                      PROSPECTIVE JUROR NUMBER FIVE: Yes, sir.

16                      THE COURT: Your name, sir?

17                      PROSPECTIVE JUROR NUMBER FIVE: Anthony  
18          Andrzychak.

19                      THE COURT: Mr. Andrzychak, what type of  
20          work are you involved in?

21                      PROSPECTIVE JUROR NUMBER FIVE: I'm  
22          unemployed at the moment.

23                      THE COURT: Okay. Are you married?

24                      PROSPECTIVE JUROR NUMBER FIVE: No.

25                      THE COURT: Okay. When you work what type

1 of work are you involved in?

2 PROSPECTIVE JUROR NUMBER FIVE: I was an  
3 auditor in an accounting firm.

4 THE COURT: An editor?

5 PROSPECTIVE JUROR NUMBER FIVE: An  
6 auditor.

7 THE COURT: Okay. Checking figures?

8 PROSPECTIVE JUROR NUMBER FIVE: Ah, yes.

9 THE COURT: Okay. You ever come across  
10 anything during the course of your work as an auditor  
11 which has turned into a crime, people embezzled or  
12 something like that?

13 PROSPECTIVE JUROR NUMBER FIVE: Um, I just  
14 turn in the report.

15 THE COURT: You don't determine whether  
16 it's a crime?

17 PROSPECTIVE JUROR NUMBER FIVE: No.

18 THE COURT: Do you have any close friends  
19 or relatives member of a law enforcement agency?

20 PROSPECTIVE JUROR NUMBER FIVE: No.

21 THE COURT: Okay. Have you ever been the  
22 victim of a crime or had a close friend or relative in  
23 that position?

24 PROSPECTIVE JUROR NUMBER FIVE: Outside of  
25 the country, yes.

1 THE COURT: What do you mean outside of  
2 the country? We don't want to hear about that.

3 PROSPECTIVE JUROR NUMBER FIVE: Oh, no,  
4 just a robbery.

5 THE COURT: Where were you?

6 PROSPECTIVE JUROR NUMBER FIVE: French  
7 Guiana.

8 THE COURT: French Guiana? Is that right?  
9 Was anyone arrested for that over there?

10 PROSPECTIVE JUROR NUMBER FIVE: Ah, no.

11 THE COURT: When you say, ah, no, they  
12 didn't bother with it, huh?

13 PROSPECTIVE JUROR NUMBER FIVE: No, it  
14 was --

15 THE COURT: Did you report it?

16 PROSPECTIVE JUROR NUMBER FIVE: I made the  
17 report.

18 THE COURT: And that was the end of it?

19 PROSPECTIVE JUROR NUMBER FIVE: Yeah.

20 THE COURT: You left the country?

21 PROSPECTIVE JUROR NUMBER FIVE: Right.

22 THE COURT: Anything about that experience  
23 that you think would cause you any problem hearing this  
24 case?

25 PROSPECTIVE JUROR NUMBER FIVE: No.

1 THE COURT: Okay. All right. Do you have  
2 any close friends or relatives that are members of a law  
3 enforcement agency?

4 PROSPECTIVE JUROR NUMBER FIVE: No.

5 THE COURT: Okay. Mr. -- your name, sir,  
6 juror number six?

7 PROSPECTIVE JUROR NUMBER SIX: Eric  
8 Rogala.

9 THE COURT: I didn't hear you.

10 PROSPECTIVE JUROR NUMBER SIX: Eric  
11 Rogala.

12 THE COURT: Mr. Rogala, what type of work  
13 are you involved in?

14 PROSPECTIVE JUROR NUMBER SIX:  
15 Self-employed auto mechanic.

16 THE COURT: Okay. Are you married?

17 PROSPECTIVE JUROR NUMBER SIX: No.

18 THE COURT: Okay. Have you, a close  
19 friend or relative of yours ever been the victim of a  
20 crime?

21 PROSPECTIVE JUROR NUMBER SIX: Myself,  
22 yes.

23 THE COURT: What happened, sir?

24 PROSPECTIVE JUROR NUMBER SIX: Robbery,  
25 gunpoint.

1 THE COURT: How long ago was that?  
2 PROSPECTIVE JUROR NUMBER SIX: It's been a  
3 few years.  
4 THE COURT: And was anyone arrested for  
5 that?  
6 PROSPECTIVE JUROR NUMBER SIX: No.  
7 THE COURT: You never appeared in court?  
8 PROSPECTIVE JUROR NUMBER SIX: No.  
9 THE COURT: Can you put that out of your  
10 mind and be a fair and impartial juror?  
11 PROSPECTIVE JUROR NUMBER SIX: Yes. One  
12 time.  
13 THE COURT: What do you mean one time?  
14 PROSPECTIVE JUROR NUMBER SIX: Well, it's  
15 like three times.  
16 THE COURT: You've done it -- this  
17 happened to you three times?  
18 PROSPECTIVE JUROR NUMBER SIX: Yeah.  
19 THE COURT: They picking on you.  
20 PROSPECTIVE JUROR NUMBER SIX: Yeah.  
21 THE COURT: You don't think you can put it  
22 out of your mind? See, I have to have an definitive  
23 answer because -- and this goes for all of the jurors. I  
24 don't want you to say, I can put it out of your mind -- I  
25 can put it out of my mind, and then in the course of a

1 trial something pops up, a fact pops up, which reminds --  
2 which makes you start reliving your own incident, you  
3 see, because then that colors your judgment, you see.  
4 That's why I have to have a definitive answer. If you  
5 tell me that, well, you know, it was a horrifying  
6 experience and I'm just not sure about it, then I have to  
7 take some action. What's your situation?

8 PROSPECTIVE JUROR NUMBER SIX: I can get  
9 past it.

10 THE COURT: Huh?

11 PROSPECTIVE JUROR NUMBER SIX: I can get  
12 past it.

13 THE COURT: Okay. All right. Juror  
14 number six, your name, sir?

15 PROSPECTIVE JUROR NUMBER SEVEN: Seven.

16 THE COURT: You're number seven. See, I  
17 can't count either.

18 PROSPECTIVE JUROR NUMBER SEVEN: Elbert  
19 Mems.

20 THE COURT: Mr. Mems, what type of work  
21 are you involved in?

22 PROSPECTIVE JUROR NUMBER SEVEN: Retired  
23 from General Motors.

24 THE COURT: Your wife?

25 PROSPECTIVE JUROR NUMBER SEVEN:



1           Cosmetologist.

2                   THE COURT:   Cosmetologist?

3                   PROSPECTIVE JUROR NUMBER SEVEN:   Yes.

4                   THE COURT:   Have you, a close friend or  
5 relative of yours ever been the victim of a crime?

6                   PROSPECTIVE JUROR NUMBER SEVEN:   Yes.

7                   THE COURT:   What happened?

8                   PROSPECTIVE JUROR NUMBER SEVEN:   Ah, I had  
9 a nephew that committed grand theft auto.  I had a nephew  
10 committed murder.

11                  THE COURT:   Where are they now?

12                  PROSPECTIVE JUROR NUMBER SEVEN:   They  
13 served their time.  They out.  They're in Flint,  
14 Michigan.

15                  THE COURT:   Okay.  Did you appear at any  
16 court hearings because of that?

17                  PROSPECTIVE JUROR NUMBER SEVEN:   No.

18                  THE COURT:   Okay.  Is there anything about  
19 those experiences -- is that it in terms of your family  
20 or friends?

21                  PROSPECTIVE JUROR NUMBER SEVEN:   Ah, I'm  
22 trying to think.

23                  THE COURT:   Take your time.

24                  PROSPECTIVE JUROR NUMBER SEVEN:   I can't  
25 think of all of 'em, but I just came --

1 THE COURT: You came from a big family  
2 like me, huh?

3 PROSPECTIVE JUROR NUMBER SEVEN: Yeah.

4 PROSPECTIVE JUROR: Me, too.

5 THE COURT: You can't talk back there,  
6 ma'am, cause we have to put everything on the record.  
7 You never appeared in court with them?

8 PROSPECTIVE JUROR NUMBER SEVEN: No.

9 THE COURT: Did you talk about it in the  
10 family?

11 PROSPECTIVE JUROR NUMBER SEVEN: No, I  
12 prefer not to.

13 THE COURT: You didn't talk about it  
14 already?

15 PROSPECTIVE JUROR NUMBER SEVEN: No, I  
16 said I prefer not to cause I know what they did, in terms  
17 of talking to the family about it.

18 THE COURT: Uh-huh. Is there anything  
19 about those experiences which you think which would color  
20 your judgment in this case?

21 PROSPECTIVE JUROR NUMBER SEVEN: No.

22 THE COURT: You could sit and be a fair  
23 and impartial juror?

24 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

25 THE COURT: Do you have any friends who

1 are members of a law enforcement agency?

2 PROSPECTIVE JUROR NUMBER SEVEN: Ah, no.

3 THE COURT: Okay. Where did you retire  
4 from General Motors, from?

5 PROSPECTIVE JUROR NUMBER SEVEN: Where did  
6 I retire from?

7 THE COURT: Which one of the plants?

8 PROSPECTIVE JUROR NUMBER SEVEN: Poletown,  
9 Hamtramck.

10 THE COURT: Did you work when they were  
11 over on Clark?

12 PROSPECTIVE JUROR NUMBER SEVEN: No, I was  
13 in Flint then. I worked at Buick.

14 THE COURT: Oh, okay, so you transferred  
15 down --

16 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

17 THE COURT: -- and you went to Poletown.  
18 The reason I asked is cause I had a good friend who  
19 worked at the Clark.

20 PROSPECTIVE JUROR NUMBER SEVEN: Okay.

21 THE COURT: Okay. Have you ever had the  
22 opportunity -- any of you ever had to appear in court for  
23 anything, for a friend or anything like that to testify  
24 as a witness? Mr. Rogala? Or we'll start with her cause  
25 she's number one.

1 PROSPECTIVE JUROR NUMBER ONE: The case I  
2 had mentioned earlier with my father, I did have to  
3 appear.

4 THE COURT: You were a witness in the  
5 case?

6 PROSPECTIVE JUROR NUMBER ONE: Yes, sir.

7 THE COURT: Did these lawyers make you mad  
8 where you don't like 'em anymore?

9 PROSPECTIVE JUROR NUMBER ONE: No.

10 THE COURT: No? You'll put that out of  
11 your mind?

12 PROSPECTIVE JUROR NUMBER ONE: Yes.

13 THE COURT: Okay. Mr. Rogala, you raised  
14 your hand?

15 PROSPECTIVE JUROR NUMBER SIX: Yeah, two  
16 years ago family friend, he was a friend of the family's  
17 before I was born and I went to court with him on the  
18 14th and he just got out on the 28th.

19 THE COURT: He was charged with a criminal  
20 offense?

21 PROSPECTIVE JUROR NUMBER SIX: Assault.

22 THE COURT: Okay. Did you say you went to  
23 court with him?

24 PROSPECTIVE JUROR NUMBER SIX: Yes.

25 THE COURT: Was it in this building?

1 PROSPECTIVE JUROR NUMBER SIX: Frank

2 Murphy, yeah.

3 THE COURT: Yeah, this is Frank Murphy.

4 PROSPECTIVE JUROR NUMBER SIX: Judge

5 Kenny.

6 THE COURT: Yeah, well, you're right on  
7 this floor. Was there anything about that experience  
8 which you think would give you a problem in this case?

9 PROSPECTIVE JUROR NUMBER SIX: No.

10 THE COURT: You didn't get mad with the  
11 lawyers on either side so that you think all his lawyers  
12 are a bunch of talkers and half of what they say is not  
13 this or that?

14 PROSPECTIVE JUROR NUMBER SIX: On the  
15 assault I wasn't there so I really don't know what  
16 happened.

17 THE COURT: You just was lending your  
18 support to it?

19 PROSPECTIVE JUROR NUMBER SIX: Yes.

20 THE COURT: Okay. All right. Mr. Mems, I  
21 asked you did you have any close friend or family members  
22 who were members of a law enforcement agency?

23 PROSPECTIVE JUROR NUMBER SEVEN: Yes --

24 THE COURT: Do you?

25 PROSPECTIVE JUROR NUMBER SEVEN: No.

1 THE COURT: All right. Juror number  
2 eight, your name, ma'am?

3 PROSPECTIVE JUROR NUMBER EIGHT: Manal  
4 Kamaledidine.

5 THE COURT: Miss Kamaledidine, am I  
6 pronouncing it right?

7 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

8 THE COURT: Okay. What type of work are  
9 you involved in?

10 PROSPECTIVE JUROR NUMBER EIGHT:  
11 Receptionist at a doctor's office.

12 THE COURT: Okay. Are you married?

13 PROSPECTIVE JUROR NUMBER EIGHT: No.

14 THE COURT: Okay. Have you ever been the  
15 victim of a crime of any sort?

16 PROSPECTIVE JUROR NUMBER EIGHT: No.

17 THE COURT: Okay. Do you have any close  
18 friends or members of a law enforcement agency?

19 PROSPECTIVE JUROR NUMBER EIGHT: No.

20 THE COURT: Okay. Do you have any close  
21 friends or relatives who have been charged with a crime?

22 PROSPECTIVE JUROR NUMBER EIGHT: No.

23 THE COURT: Do you know of any reason why  
24 you could not be a fair and impartial juror?

25 PROSPECTIVE JUROR NUMBER EIGHT: No.

1 THE COURT: Okay. Juror number nine,  
2 that's you, sir.

3 PROSPECTIVE JUROR NUMBER NINE: Okay.  
4 Jeffrey Lachapelle.

5 THE COURT: Close friend or relatives --  
6 number one, what type of work are you involved in?

7 PROSPECTIVE JUROR NUMBER NINE: Vice  
8 president of sales for a special materials company in Ann  
9 Arbor.

10 THE COURT: Okay. What about your wife,  
11 if you're married?

12 PROSPECTIVE JUROR NUMBER NINE: She's a  
13 homemaker.

14 THE COURT: Okay. Have you, a close  
15 friend or relative of yours ever been the victim of a  
16 crime?

17 PROSPECTIVE JUROR NUMBER NINE: No, but I  
18 had a civil case in this court.

19 THE COURT: Not in this court. In the  
20 Circuit Court, but not here. This is criminal law.

21 PROSPECTIVE JUROR NUMBER NINE: Sorry.

22 THE COURT: But that's okay. That's okay.  
23 You could have because at one time we did some civil  
24 cases in this building. Do you have any close friend  
25 or relatives who are members of a law enforcement agency?

1 PROSPECTIVE JUROR NUMBER NINE: No.

2 THE COURT: You told me that the civil  
3 case that you were involved in, did you actually end up  
4 with a trial?

5 PROSPECTIVE JUROR NUMBER NINE: It ended  
6 up after three years going through AAA.

7 THE COURT: What do you call it,  
8 mediation?

9 PROSPECTIVE JUROR NUMBER NINE: Mediation.

10 THE COURT: And you settled with them?

11 PROSPECTIVE JUROR NUMBER NINE: Yes.

12 THE COURT: Okay. Is there anything about  
13 that experience, dealing with the lawyers, that causes  
14 you a problem, to dislike us?

15 PROSPECTIVE JUROR NUMBER NINE: No, sir.

16 THE COURT: Okay. Do you know of any  
17 reason why you could not be a fair and impartial juror?

18 PROSPECTIVE JUROR NUMBER NINE: No.

19 THE COURT: Okay. All right. Mr. --  
20 what's your name, sir?

21 PROSPECTIVE JUROR NUMBER TEN: Genaro  
22 Murillo.

23 THE COURT: Murillo?

24 PROSPECTIVE JUROR NUMBER TEN: Yes.

25 THE COURT: Mr. Murillo, you told me you



1           were going to work, you got a job offer. What type of  
2           work is that going to be?

3                       PROSPECTIVE JUROR NUMBER TEN: I am going  
4           to be a bank teller for a union credit union.

5                       THE COURT: Okay. And is that what you've  
6           been involved in most of your working life?

7                       PROSPECTIVE JUROR NUMBER TEN: Ah, no. I  
8           also have a second job. I am a service assistant at Long  
9           Horn Steak House.

10                      THE COURT: Okay. All right. Okay. Have  
11          you, a close friend or relative of yours ever been the  
12          victim of a crime?

13                      PROSPECTIVE JUROR NUMBER TEN: I was  
14          mugged about eight years ago.

15                      THE COURT: Was anyone arrested for that?

16                      PROSPECTIVE JUROR NUMBER TEN: No.

17                      THE COURT: And you never appeared in  
18          court?

19                      PROSPECTIVE JUROR NUMBER TEN: No.

20                      THE COURT: Okay. You reported it to the  
21          police?

22                      PROSPECTIVE JUROR NUMBER TEN: Yes.

23                      THE COURT: You're not going to hold it  
24          against the police or the Defendant in this case, are  
25          you?

1 PROSPECTIVE JUROR NUMBER TEN: No.  
2 THE COURT: Okay. You're not married, are  
3 you?  
4 PROSPECTIVE JUROR NUMBER TEN: No.  
5 THE COURT: You look so young. That's why  
6 I say that. Do you have any close friends or relatives  
7 that are members of a law enforcement agency?  
8 PROSPECTIVE JUROR NUMBER TEN: No.  
9 THE COURT: Okay. Do you have any close  
10 friend or relatives that have been charged with a crime?  
11 PROSPECTIVE JUROR NUMBER TEN: No.  
12 THE COURT: Okay. Do you know of any  
13 reason why you could not be a fair and impartial juror?  
14 PROSPECTIVE JUROR NUMBER TEN: No, sir.  
15 THE COURT: Okay. Mr. -- you're number  
16 eleven.  
17 PROSPECTIVE JUROR NUMBER ELEVEN: David  
18 Kelly.  
19 THE COURT: Mr. Kelly?  
20 PROSPECTIVE JUROR NUMBER ELEVEN: Yes.  
21 THE COURT: Mr. Kelly, what type of work  
22 are you involved in?  
23 PROSPECTIVE JUROR NUMBER ELEVEN: I'm  
24 retired from General Motors.  
25 THE COURT: Okay. We got all these

1 General Motors retirees here today. Is your wife -- is  
2 she employed outside the home?

3 PROSPECTIVE JUROR NUMBER ELEVEN: I'm not  
4 married.

5 THE COURT: Okay. You were married at one  
6 time?

7 PROSPECTIVE JUROR NUMBER ELEVEN: Yes.

8 THE COURT: What type of work did she do  
9 at that time, if she worked?

10 PROSPECTIVE JUROR NUMBER ELEVEN: Did she  
11 do?

12 THE COURT: Yes.

13 PROSPECTIVE JUROR NUMBER ELEVEN: She was  
14 a -- she worked in the U of M Hospital as a technician.

15 THE COURT: Okay. How long ago had you  
16 been -- are you divorced or widowed?

17 PROSPECTIVE JUROR NUMBER ELEVEN: I'm  
18 divorced.

19 THE COURT: Okay. How long ago is that?

20 PROSPECTIVE JUROR NUMBER ELEVEN: Six  
21 years.

22 THE COURT: Okay. When you were married  
23 to her and she was working as a technician at the U of M  
24 Hospital, you say?

25 PROSPECTIVE JUROR NUMBER ELEVEN: Yes.

1 THE COURT: Okay. Did she work -- did she  
2 come in contact with people who had been the victims of  
3 crimes or charged with a crime and they got injured or  
4 something like that or do you know?

5 PROSPECTIVE JUROR NUMBER ELEVEN: Well,  
6 she could have because whenever that -- somebody got shot  
7 or something like that --

8 THE COURT: Yes.

9 PROSPECTIVE JUROR NUMBER ELEVEN: -- they  
10 would get the -- they would get the bullet --

11 THE COURT: Oh, okay.

12 PROSPECTIVE JUROR NUMBER ELEVEN: -- and  
13 they would have to -- they would have to run the test on  
14 the tissues.

15 THE COURT: Oh, okay. Okay. Did she ever  
16 come home and discuss -- I know she came home and  
17 discussed the work with you because you know about it,  
18 right?

19 PROSPECTIVE JUROR NUMBER ELEVEN: She has  
20 come home and told me a lot of things.

21 THE COURT: Okay. Well, has that caused  
22 you any definitive opinions about law enforcement or the  
23 criminal justice system which you think would interfere  
24 with what you hear in this case?

25 PROSPECTIVE JUROR NUMBER ELEVEN: No.

1 THE COURT: Okay. What she's told you is  
2 not important here today, do you understand?

3 PROSPECTIVE JUROR NUMBER ELEVEN: No,  
4 that's not important, no.

5 THE COURT: You've got to make your  
6 decision based on what you hear today. Do you  
7 understand?

8 PROSPECTIVE JUROR NUMBER ELEVEN: Right.

9 THE COURT: Can you do that?

10 PROSPECTIVE JUROR NUMBER ELEVEN: Yes.

11 THE COURT: Do you have any close friends  
12 or relatives who are members of a law enforcement agency?

13 PROSPECTIVE JUROR NUMBER ELEVEN: Yes, I  
14 do.

15 THE COURT: What's that?

16 PROSPECTIVE JUROR NUMBER ELEVEN: I got a  
17 daughter that's a prison guard.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER ELEVEN: In  
20 Virginia.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER ELEVEN: And I  
23 got a grandson, he's a prison guard in Virginia.

24 THE COURT: It's her son?

25 PROSPECTIVE JUROR NUMBER ELEVEN: Pardon

1 me?

2 THE COURT: Is it her son?

3 PROSPECTIVE JUROR NUMBER ELEVEN: Yeah.

4 THE COURT: Okay. All right.

5 PROSPECTIVE JUROR NUMBER ELEVEN: And I've  
6 got another grand -- another -- I got a nephew that he is  
7 a -- is he a sheriff in Kentucky.

8 THE COURT: Okay. Okay. Anybody else  
9 that you can think of?

10 PROSPECTIVE JUROR NUMBER ELEVEN:  
11 That's -- not now.

12 THE COURT: That's it, huh? Okay. Well  
13 now, you haven't had -- your people working in the  
14 industry and your son -- the nephew, the sheriff, do you  
15 understand that this is a sheriff here, deputy sheriff --

16 PROSPECTIVE JUROR NUMBER ELEVEN: Right.

17 THE COURT: -- and you're going to be  
18 hearing testimony from these people. Do you understand  
19 that you have to judge that testimony the same as any  
20 other witness? Do you understand that?

21 PROSPECTIVE JUROR NUMBER ELEVEN: Right.

22 THE COURT: You can't be biased because  
23 your relatives are involved in law enforcement. Can you  
24 do that?

25 PROSPECTIVE JUROR NUMBER ELEVEN: Yes.

1 THE COURT: Okay. All right. Juror  
2 number twelve.  
3 PROSPECTIVE JUROR NUMBER TWELVE: Anna  
4 Hollis.  
5 THE COURT: Miss Hollis, what type of work  
6 are you involved in?  
7 PROSPECTIVE JUROR NUMBER TWELVE: I'm a  
8 registered nurse for Beaumont Health.  
9 THE COURT: Okay. What hospital do you  
10 work in?  
11 PROSPECTIVE JUROR NUMBER TWELVE: Yes,  
12 currently I'm at an ambulatory site so I work for a  
13 cardio -- cardiologist.  
14 THE COURT: Oh, okay. Okay. Are you  
15 married?  
16 PROSPECTIVE JUROR NUMBER TWELVE: I am.  
17 THE COURT: Your husband's employed?  
18 PROSPECTIVE JUROR NUMBER TWELVE: He is.  
19 He's a firefighter for Airport Authority.  
20 THE COURT: Out at Metro?  
21 PROSPECTIVE JUROR NUMBER TWELVE: Uh-huh.  
22 THE COURT: Okay. Working in a  
23 cardiologist's office you don't come in contact with  
24 people involved in crime too much, do you?  
25 PROSPECTIVE JUROR NUMBER TWELVE: No.

1 THE COURT: Most of the people are  
2 referred to you?

3 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

4 THE COURT: Okay. Do you have any close  
5 friend -- have you, a close friend or relative ever been  
6 the victim of a crime?

7 PROSPECTIVE JUROR NUMBER TWELVE: No, not  
8 the victim of a crime. I currently have a son that's  
9 incarcerated.

10 THE COURT: How long ago was that?

11 PROSPECTIVE JUROR NUMBER TWELVE: Um, he's  
12 still incarcerated.

13 THE COURT: Okay. Did you appear in court  
14 with him?

15 PROSPECTIVE JUROR NUMBER TWELVE: Sure.

16 THE COURT: Okay. Was there anything  
17 about that experience which you think would cause you to  
18 have a problem hearing this case?

19 PROSPECTIVE JUROR NUMBER TWELVE:  
20 Absolutely not.

21 THE COURT: You didn't get mad at us  
22 lawyers or prosecutor or defense where you said, now I'm  
23 going to take it out on you. Do you understand that?

24 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

25 THE COURT: Okay. Do you have any close



1 friends or relatives that are members of a law  
2 enforcement agency?

3 PROSPECTIVE JUROR NUMBER TWELVE: I do  
4 have friends.

5 THE COURT: In what agency?

6 PROSPECTIVE JUROR NUMBER TWELVE: I  
7 believe it's Wayne County. I'm sorry. I'm not sure.

8 THE COURT: Wayne County Sheriff's  
9 Department?

10 PROSPECTIVE JUROR NUMBER TWELVE: Uh-huh.

11 THE COURT: Okay. You understand as I've  
12 explained to the others that you give the police  
13 officer's testimony the same weight and credibility as  
14 any other witness? Do you understand that?

15 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

16 THE COURT: Any problem with that?

17 PROSPECTIVE JUROR NUMBER TWELVE: No.

18 THE COURT: Okay. Miss -- what's your  
19 name.

20 PROSPECTIVE JUROR NUMBER THIRTEEN:  
21 Frances Day Embry-Barnes.

22 THE COURT: You got to pronounce that for  
23 me again. Just your last name.

24 PROSPECTIVE JUROR NUMBER THIRTEEN:  
25 Embry-Barnes.

1 THE COURT: Embry-Barnes?  
2 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.  
3 THE COURT: Okay. What type of work are  
4 you involved in, ma'am?  
5 PROSPECTIVE JUROR NUMBER THIRTEEN: I'm an  
6 attorney.  
7 THE COURT: Oh, well, we know about you.  
8 PROSPECTIVE JUROR NUMBER THIRTEEN: On the  
9 civil side.  
10 THE COURT: Oh, you don't practice real  
11 law, do you?  
12 PROSPECTIVE JUROR NUMBER THIRTEEN: Oh --  
13 THE COURT: Okay. Are you married?  
14 PROSPECTIVE JUROR NUMBER THIRTEEN:  
15 Divorced.  
16 THE COURT: Okay. What type of work did  
17 your husband do?  
18 PROSPECTIVE JUROR NUMBER THIRTEEN: He was  
19 a journeyman at Chrysler.  
20 THE COURT: Okay. Okay. By the way, this  
21 is a point of reference. What law school?  
22 PROSPECTIVE JUROR NUMBER THIRTEEN: Wayne  
23 State.  
24 THE COURT: Oh, well, too bad. My  
25 daughter went to Wayne State, too, law school. Have you,

1 a close friend or relative of yours ever been the victim  
2 of a crime?

3 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes,  
4 your Honor.

5 THE COURT: What happened?

6 PROSPECTIVE JUROR NUMBER THIRTEEN: My  
7 brother was murdered.

8 THE COURT: How long ago was that?

9 PROSPECTIVE JUROR NUMBER THIRTEEN: Ah,  
10 nineteen years ago.

11 THE COURT: Was anyone prosecuted for it?

12 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

13 THE COURT: And did you attend the  
14 proceedings?

15 PROSPECTIVE JUROR NUMBER THIRTEEN: It was  
16 a plea bargain, so it did not --

17 THE COURT: Go to a trial?

18 PROSPECTIVE JUROR NUMBER THIRTEEN: -- go  
19 through the process.

20 THE COURT: Well, is there anything about  
21 the prosecutor offers pleas which you think they were  
22 unfair to your family or anything like that?

23 PROSPECTIVE JUROR NUMBER THIRTEEN: No,  
24 your Honor.

25 THE COURT: You think that based on their

1 perception of the evidence and everything they did the  
2 best they could with the case?

3 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes,  
4 your Honor.

5 THE COURT: Okay. And you will not hold  
6 that against the prosecutor, is that correct?

7 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

8 THE COURT: And you will not hold it  
9 against the Defendant, is that correct?

10 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

11 THE COURT: You will decide the case based  
12 solely on the facts that you hear from the witness stand,  
13 is that correct?

14 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

15 THE COURT: Do you have any close friend  
16 or relatives who are members of a law enforcement agency?

17 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

18 THE COURT: Okay. All right. The last  
19 one, last but not least, your name, ma'am.

20 PROSPECTIVE JUROR NUMBER FOURTEEN: Cierra  
21 McKinney.

22 THE COURT: Miss McKinney, what type -- if  
23 you're employed outside the home what type of work are  
24 you involved in?

25 PROSPECTIVE JUROR NUMBER FOURTEEN: Your

1 Honor, I work at Dairy Queen and I also work at my  
2 college.

3 THE COURT: At where?

4 PROSPECTIVE JUROR NUMBER FOURTEEN: At my  
5 college, Eastern Michigan.

6 THE COURT: Oh, okay. All right. My  
7 niece teaches up there so I can't hold that against you.  
8 See, I'm a Michigan Stater, so.

9 PROSPECTIVE JUROR NUMBER FOURTEEN:  
10 Gotcha.

11 THE COURT: Do you have any close friend  
12 or relatives who are members of a law enforcement agency?

13 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

14 THE COURT: Have you, a close friend or  
15 relative ever been the victim of a crime?

16 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

17 THE COURT: Do you have any close friend  
18 or relatives who have been charged with a crime?

19 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

20 THE COURT: Are you married?

21 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

22 THE COURT: Do you know of any reason why  
23 you cannot be a fair and impartial juror?

24 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

25 THE COURT: Okay. If I missed asking this

1 question of any of the jurors I'm going to ask you now.  
2 Do any of you, if I have not asked you, know of any  
3 reason that you have not been asked about or that you  
4 know would cause you not to be a fair and impartial  
5 juror, now is the time to raise your hand. Anyone in a  
6 position like that?

7 (Hands raised)

8 THE COURT: Yes, ma'am?

9 PROSPECTIVE JUROR NUMBER TWO: I raised my  
10 hand, but I guess it was have I ever been involved in a  
11 court case.

12 THE COURT: Yes.

13 PROSPECTIVE JUROR NUMBER TWO: I have at a  
14 federal level.

15 THE COURT: What happened?

16 PROSPECTIVE JUROR NUMBER TWO: I sued my  
17 employer for discrimination.

18 THE COURT: Okay. Well, is there anything  
19 about that experience which would cause you to dislike  
20 her?

21 PROSPECTIVE JUROR NUMBER TWO: No.

22 THE COURT: That would not interfere with  
23 your judgment in this case?

24 PROSPECTIVE JUROR NUMBER TWO: No.

25 THE COURT: Okay. Counsel for the People,

1           you may.

2                       MS. LOZEN: Good morning, everyone.

3                       JURY (In unison): Good morning.

4                       MS. LOZEN: And the purpose behind voir  
5       dire is just to get to know you and ask a few questions  
6       about you so I'm not trying to pry or be inclusive. I  
7       just wanted some information from you.

8                       I would first like to start by asking the  
9       few of you who have indicated you had contacts with the  
10      criminal justice system, Miss Young, was your father  
11      charged -- I'm sorry, treated fairly during the criminal  
12      justice system?

13                      PROSPECTIVE JUROR NUMBER ONE: Yes, he  
14      was.

15                      MS. LOZEN: Okay. And did you know the  
16      victim in the case?

17                      PROSPECTIVE JUROR NUMBER ONE: Yes, I  
18      did.

19                      MS. LOZEN: Was she treated fairly?

20                      PROSPECTIVE JUROR NUMBER ONE: Yes, she  
21      was.

22                      MS. LOZEN: Okay. And, Miss Gorski, you  
23      indicated that there was a stolen car that occurred, but  
24      no one was arrested?

25                      PROSPECTIVE JUROR NUMBER TWO: Right.

1 MS. LOZEN: Were you treated fairly by the  
2 police?

3 PROSPECTIVE JUROR NUMBER TWO: Oh, yes.

4 MS. LOZEN: Okay. And, Miss Gable, you  
5 indicated that you had been mugged once?

6 PROSPECTIVE JUROR NUMBER THREE: Yes.

7 MS. LOZEN: And I think you indicated that  
8 there was a juvenile involved?

9 PROSPECTIVE JUROR NUMBER THREE: Yes.

10 MS. LOZEN: Do you believe that that  
11 juvenile was treated fairly?

12 PROSPECTIVE JUROR NUMBER THREE: I think  
13 so, but I wasn't involved far enough in the process to  
14 know the outcome.

15 MS. LOZEN: Okay. And were you treated  
16 fairly by the police?

17 PROSPECTIVE JUROR NUMBER THREE: Yes.

18 MS. LOZEN: I believe, Mr. Rogala, you  
19 indicated that you were robbed at one point?

20 PROSPECTIVE JUROR NUMBER SIX: Yes.

21 MS. LOZEN: Okay. And you indicated that  
22 no one had been arrested, is that correct?

23 PROSPECTIVE JUROR NUMBER SIX: None of the  
24 times.

25 MS. LOZEN: None of the times. Okay.



1 During those robberies do you believe that you were  
2 treated fairly by the police?

3 PROSPECTIVE JUROR NUMBER SIX: I guess,  
4 yeah. I say, yes.

5 MS. LOZEN: Well, is there a reason why  
6 you're hesitant?

7 PROSPECTIVE JUROR NUMBER SIX: Well, there  
8 was no report really made. It was just they showed up at  
9 the scene and stayed there while I picked my own ignition  
10 to get my car out of there cause he took my keys, too,  
11 that one time.

12 MS. LOZEN: Okay.

13 PROSPECTIVE JUROR NUMBER SIX: And another  
14 time I was standing on the corner at gunpoint and it was  
15 over and like nothing was done then.

16 MS. LOZEN: Okay. Well, when you say  
17 nothing was done, did the police not do anything or was  
18 there nothing to follow up on?

19 PROSPECTIVE JUROR NUMBER SIX: Nothing was  
20 done by the police. When we come running back -- me and  
21 my buddy come running back around the corner. That's the  
22 time when the big four were around. I said, there the  
23 guys go. They went towards 'em and made a left on the  
24 next corner and instead of going where they were at, so.

25 MS. LOZEN: Okay.

1 PROSPECTIVE JUROR NUMBER SIX: Nothing  
2 done.

3 MS. LOZEN: Thank you. Mr. Mems, you  
4 indicated that you had family who had contact with the  
5 criminal justice system as well. You indicated you had  
6 nephews who had --

7 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

8 MS. LOZEN: -- been through the criminal  
9 justice system?

10 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

11 MS. LOZEN: Were your nephews treated  
12 fairly by the criminal justice system?

13 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

14 MS. LOZEN: Okay. And you indicated that  
15 you weren't really involved in the case, but did you know  
16 the victims at all?

17 PROSPECTIVE JUROR NUMBER SEVEN: No, I  
18 didn't know the victims. I mean, all I know is that he  
19 stole a truck.

20 MS. LOZEN: Okay.

21 PROSPECTIVE JUROR NUMBER SEVEN: And he  
22 did time for it. He's down in Marquette for it.

23 MS. LOZEN: Okay. But overall his  
24 experience with the criminal justice system you believe  
25 he was treated fairly?

1 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

2 MS. LOZEN: Thank you. And, Mr. Murillo,  
3 you indicated you had been mugged at one point?

4 PROSPECTIVE JUROR NUMBER TEN: Yes.

5 MS. LOZEN: And were you treated fairly by  
6 the criminal justice system?

7 PROSPECTIVE JUROR NUMBER TEN: I never  
8 went to trial or anything.

9 MS. LOZEN: Okay. I'm sorry, were you  
10 treated fairly by the police?

11 PROSPECTIVE JUROR NUMBER TEN: Yes.

12 MS. LOZEN: And, Miss Hollis, you  
13 indicated that you have a family or a relative who's  
14 currently incarcerated?

15 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

16 MS. LOZEN: And was he treated fairly by  
17 the criminal justice system?

18 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

19 MS. LOZEN: Do you know the victim in that  
20 particular case?

21 PROSPECTIVE JUROR NUMBER TWELVE: There  
22 was no victim.

23 MS. LOZEN: There was no victim? Okay.  
24 And Miss Embry-Barnes, you indicated that you knew  
25 someone or had a relative that was murdered?

1 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

2 MS. LOZEN: And you indicated that there  
3 was a plea bargain?

4 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

5 MS. LOZEN: Did you have any opinion about  
6 that plea bargain?

7 PROSPECTIVE JUROR NUMBER THIRTEEN: Based  
8 on the evidence at the time at that point in time the  
9 plea bargain was a correct action.

10 MS. LOZEN: Okay. So overall the parties  
11 were treated fairly?

12 PROSPECTIVE JUROR NUMBER THIRTEEN:  
13 Overall.

14 MS. LOZEN: Your family as well as the  
15 defendant?

16 PROSPECTIVE JUROR NUMBER THIRTEEN: I  
17 can't speak on behalf of the defendant. I can only speak  
18 on behalf of my relative and my family.

19 MS. LOZEN: But do you feel that the  
20 criminal justice system treated him fairly -- I'm using  
21 the word him, but this defendant was -- was this  
22 defendant treated fairly, in your mind?

23 PROSPECTIVE JUROR NUMBER THIRTEEN: I  
24 can't really say. It didn't go through the process so I  
25 can't really make an opinion as to how the criminal

1 justice system was fair on that person or not.

2 MS. LOZEN: Okay.

3 PROSPECTIVE JUROR NUMBER THIRTEEN: I can  
4 only speak on how it impacted me and my family and the  
5 fairness with regards to that.

6 MS. LOZEN: Thank you. I believe I got  
7 everyone who indicated they had contacts with the  
8 criminal justice system, correct?

9 (No response)

10 MS. LOZEN: Thank you. And, Miss  
11 Fishback, you indicated at one point you had been married  
12 to a police officer?

13 PROSPECTIVE JUROR NUMBER FOUR: Yes.

14 MS. LOZEN: And do you agree that you're  
15 going to treat all the witnesses' testimony the same?  
16 You'll evaluate them independently and you're not going  
17 to give extra weight to a police officer's testimony?

18 PROSPECTIVE JUROR NUMBER FOUR: That's  
19 correct.

20 MS. LOZEN: Okay. Now, I do have a  
21 question for the entire group and this is if -- I know  
22 the Judge has already gone through and I want to know if  
23 anyone had been the victim of a crime, but I want to  
24 specifically ask if anyone -- if you, yourself, or anyone  
25 you know could have been the victim of a sexual assault

1 and even if it was not reported to the police? Anyone  
2 have any hands?

3 (Hands raised)

4 MS. LOZEN: Okay. Miss Gorski?

5 PROSPECTIVE JUROR NUMBER TWO: College  
6 girlfriend.

7 MS. LOZEN: Okay. And was she the victim  
8 of a sexual assault?

9 PROSPECTIVE JUROR NUMBER TWO: Yes.

10 MS. LOZEN: Was it reported to the  
11 police?

12 PROSPECTIVE JUROR NUMBER TWO: No.

13 MS. LOZEN: Don't -- just say yes or no,  
14 but do you know if there was a reason it was not reported  
15 to the police?

16 PROSPECTIVE JUROR NUMBER TWO: No.

17 MS. LOZEN: Okay. Did you talk to her  
18 about this incident?

19 PROSPECTIVE JUROR NUMBER TWO: Yes.

20 MS. LOZEN: Okay.

21 PROSPECTIVE JUROR NUMBER TWO: It was a  
22 long time ago.

23 MS. LOZEN: Long time ago?

24 PROSPECTIVE JUROR NUMBER TWO: Yeah.

25 MS. LOZEN: Did she know the assailant or

1 the perpetrator?

2 PROSPECTIVE JUROR NUMBER TWO: Yes.

3 MS. LOZEN: Do you think that she had been  
4 treated fairly by her peers or her friends?

5 PROSPECTIVE JUROR NUMBER TWO: Yes.

6 MS. LOZEN: Okay. And anyone else know  
7 anyone who's been the victim of a sexual assault even if  
8 it wasn't reported to the police?

9 (Hand raised)

10 MS. LOZEN: Okay. Mr. Kelly.

11 PROSPECTIVE JUROR NUMBER ELEVEN: My  
12 nephew, he was -- he raped a girl.

13 MS. LOZEN: Okay.

14 PROSPECTIVE JUROR NUMBER ELEVEN: And it  
15 did go to court and he was on probation for, I don't know  
16 how long, a year ago.

17 MS. LOZEN: Okay. So the case did go to  
18 court?

19 PROSPECTIVE JUROR NUMBER ELEVEN: Yes, it  
20 went to court.

21 MS. LOZEN: Okay. Did you -- you  
22 indicated it was your nephew. Did you know the victim at  
23 all?

24 PROSPECTIVE JUROR NUMBER ELEVEN: The  
25 victim? No.

1 MS. LOZEN: Do you feel your nephew was  
2 treated fairly by the criminal justice system?

3 PROSPECTIVE JUROR NUMBER ELEVEN: Yep.

4 MS. LOZEN: And to your knowledge, even  
5 though you didn't know the victim, was the victim treated  
6 fairly by the criminal justice system or by the police?

7 PROSPECTIVE JUROR NUMBER ELEVEN: Um,  
8 yeah.

9 MS. LOZEN: Okay. And anyone else know --  
10 sorry.

11 (Hand raised)

12 MS. LOZEN: Miss Fishback.

13 PROSPECTIVE JUROR NUMBER FOUR: My  
14 cousin's daughter was raped on campus.

15 MS. LOZEN: Okay.

16 PROSPECTIVE JUROR NUMBER FOUR: It was in  
17 Traverse City and I don't know any of the particulars  
18 about the case or what happened or anything.

19 MS. LOZEN: Do you know if it was reported  
20 to the police?

21 PROSPECTIVE JUROR NUMBER FOUR: Yes, it  
22 was.

23 MS. LOZEN: Okay. But you don't know  
24 about the outcome of the case?

25 PROSPECTIVE JUROR NUMBER FOUR: I do not.



1 MS. LOZEN: Okay. And do you know if  
2 anyone was treated fairly or do you have an opinion about  
3 whether someone was treated fairly?

4 PROSPECTIVE JUROR NUMBER FOUR: I'm so far  
5 in distance away and away from the actual information  
6 about it that I really couldn't answer.

7 MS. LOZEN: Okay. Anyone else know  
8 someone who's been the victim of a sexual assault even if  
9 it wasn't reported?

10 (No response)

11 MS. LOZEN: Now, I'll flip that question  
12 and ask if anyone knows anyone who's been accused of a  
13 sexual assault even if it wasn't reported to the police?

14 (No response)

15 MS. LOZEN: No hands? Okay. Now, I want  
16 to ask the group that suppose someone is shopping at a --  
17 let's just call it a K-Mart or Target. It doesn't  
18 matter. Someone's shopping at Target and it's late at  
19 night and they go out to their car around when they go  
20 out to their car no one else is around because they're  
21 the last shoppers there.

22 There's no video cameras, no other  
23 employees and as they're going out to their car someone  
24 comes up to them and demands their wallet. Now, just  
25 because there was no one else around to see the assault,

1 the taking of this wallet do you still believe this  
2 person would be the victim of a crime just because no one  
3 was around?

4 (No response)

5 MS. LOZEN: I'm seeing people nodding  
6 their heads, yes, that you agree with me this person is  
7 still a victim of a crime even though they were the only  
8 ones to see the assault or to see the crime?

9 (No response)

10 MS. LOZEN: Now, I want to ask you if the  
11 police arrived and this man, who's been robbed, points  
12 out this individual to the police. Should the police  
13 arrest this individual?

14 PROSPECTIVE JUROR: Yes.

15 MS. LOZEN: Mr. Rogala, should the police  
16 arrest this individual?

17 PROSPECTIVE JUROR NUMBER SIX: Yeah.

18 MS. LOZEN: Is that a yes?

19 PROSPECTIVE JUROR NUMBER SIX: Yes.

20 MS. LOZEN: And, now, say the case goes to  
21 court and again that person is the only one who saw the  
22 incident and they want to testify. Should the jury  
23 believe this individual?

24 PROSPECTIVE JURORS: Yes, sir.

25 MS. LOZEN: Okay. And right now you know

1 nothing else about this and I'm just posing a  
2 hypothetical to you, but just because this person is  
3 the only one to view the assault or this robbery should  
4 they -- should their testimony just on its own be  
5 believed or be believable? Should it be evaluated by a  
6 jury?

7 JURY (In unison): Yes.

8 PROSPECTIVE JURORS: Yes.

9 MS. LOZEN: And then, now, I want to ask  
10 you and I'll put this to you, if the Judge gives you the  
11 law and the law says that the victim's testimony alone by  
12 itself, if proven the case beyond a reasonable doubt is  
13 enough to convict, so essentially if only one witness  
14 testifies and that proves all the elements beyond a  
15 reasonable doubt could you convict with that one person's  
16 testimony alone?

17 PROSPECTIVE JURORS: Yes.

18 MS. LOZEN: Okay. Not everyone's  
19 participating so I'll rephrase it. It's kind of a long  
20 question. If one victim testifies and the Judge tells  
21 you, if you believe that victim beyond a reasonable doubt  
22 and that the only testimony we have and that victim's  
23 testimony satisfies all the elements of the crime, could  
24 you convict?

25 JURY (In unison): Yes.

1 MS. LOZEN: Okay. Juror number nine, Mr.  
2 Lachapelle, am I saying that correct?

3 PROSPECTIVE JUROR NUMBER NINE: It's  
4 Lachapelle.

5 MS. LOZEN: Lachapelle. Could you convict  
6 on one person's testimony alone if you believe it beyond  
7 a reasonable doubt?

8 PROSPECTIVE JUROR NUMBER NINE: Yes.

9 MS. LOZEN: Okay. What about, Miss  
10 McKinney, juror number fourteen, could you convict on one  
11 person's testimony alone?

12 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.

13 MS. LOZEN: Okay. Is there anything else  
14 you'd want to see, anybody? Would anybody else want to  
15 see anything else?

16 PROSPECTIVE JUROR NUMBER TWO: DNA?

17 MS. LOZEN: Okay. So you're saying you'd  
18 want to see DNA?

19 PROSPECTIVE JUROR NUMBER TWO: Uh-huh.

20 MS. LOZEN: Okay. So you're saying you'd  
21 want to see DNA?

22 PROSPECTIVE JUROR NUMBER TWO: Uh-huh.

23 MS. LOZEN: Would you expect there to  
24 always be DNA in any kind of a -- in any kind of a rape?

25 PROSPECTIVE JUROR NUMBER TWO: I -- no.

1 MS. LOZEN: Okay. So there are certain  
2 circumstances where you would not necessarily get DNA?

3 PROSPECTIVE JUROR NUMBER TWO: Right.

4 MS. LOZEN: Okay. But even if that victim  
5 pointed out and established all the elements of the crime  
6 and you believe that person and it proves the case beyond  
7 a reasonable doubt could you convict?

8 PROSPECTIVE JUROR NUMBER TWO: Yes.

9 MS. LOZEN: Okay. And now I want to  
10 ask -- this is for the panel again -- if two people go on  
11 a blind date and when they're on this blind date they  
12 have consensual sex. So it's their first date and they  
13 have consensual sex. Does anyone have an issue with  
14 someone having sex on the first date?

15 (No response)

16 MS. LOZEN: No? I see no one --  
17 everyone's nodding their heads. Anyone have an issue  
18 with them having sex on the first date?

19 (No response)

20 MS. LOZEN: Now, just because she had sex  
21 on the first date does that mean that someone else can  
22 come along and then rape her?

23 PROSPECTIVE JURORS: No.

24 MS. LOZEN: Okay. What about Miss  
25 Kamaleddine? Do you believe that if she had sex on the

1 first date, and even though you may not necessarily  
2 approve of her having sex on the first date do you think  
3 that she later on serves to be raped?

4 PROSPECTIVE JUROR NUMBER EIGHT: No.

5 MS. LOZEN: And did she give permission to  
6 any man to just come along and just sexually assault her?  
7 Miss Kamaleddine, does she give permission for any man to  
8 just come along and sexually assault her?

9 PROSPECTIVE JUROR NUMBER EIGHT: No.

10 MS. LOZEN: No. Okay. Thank you. And  
11 then I want to ask everyone that who here has been  
12 present for the birth of a baby?

13 (Hands raised)

14 MS. LOZEN: Okay. Mr. Mems, you said you  
15 were present for the birth of a baby?

16 PROSPECTIVE JUROR NUMBER SEVEN: Yeah, my  
17 youngest son.

18 MS. LOZEN: Your youngest son and were  
19 there doctors and nurses in that room?

20 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

21 MS. LOZEN: And midwife perhaps?

22 PROSPECTIVE JUROR NUMBER SEVEN: No, just  
23 doctors.

24 MS. LOZEN: Just doctors and nurses?

25 PROSPECTIVE JUROR NUMBER SEVEN: Uh-huh.

1 MS. LOZEN: Now, you would say that a  
2 birth of a baby is a pretty memorable event, correct?

3 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

4 MS. LOZEN: Okay. And can you tell me  
5 right now in 2016 what color the scrubs of the nurse  
6 were?

7 PROSPECTIVE JUROR NUMBER SEVEN: I knew  
8 they were blue.

9 MS. LOZEN: They were blue?

10 PROSPECTIVE JUROR NUMBER SEVEN: Yeah.

11 MS. LOZEN: Okay. And how about the hair  
12 color of the nurse?

13 PROSPECTIVE JUROR NUMBER SEVEN: I  
14 couldn't tell you that.

15 MS. LOZEN: Okay. Now, just because you  
16 can't remember a small detail does that mean that the  
17 birth of the baby did not occur?

18 PROSPECTIVE JUROR NUMBER SEVEN: Well,  
19 that's an obvious answer.

20 MS. LOZEN: Thank you, sir. So are you  
21 telling me that even though you can't remember that small  
22 detail the birth of the baby still occurred?

23 PROSPECTIVE JUROR NUMBER SEVEN: Yes.

24 MS. LOZEN: Okay. What about you, Mr.  
25 Kelly, did the birth of the baby still occur even though

1           you couldn't remember a small detail?

2                       PROSPECTIVE JUROR NUMBER ELEVEN: I didn't  
3           raise my hand.

4                       MS. LOZEN: You didn't raise your hand.  
5           Okay. But --

6                       PROSPECTIVE JUROR NUMBER ELEVEN: I have  
7           never been -- I never seen a baby born.

8                       MS. LOZEN: Okay. But you indicated that  
9           at one point you had been married, correct?

10                      PROSPECTIVE JUROR NUMBER ELEVEN: Right.

11                      MS. LOZEN: Okay. Now, a wedding is an  
12           important date as well, correct?

13                      PROSPECTIVE JUROR NUMBER ELEVEN: Right.

14                      MS. LOZEN: It's something important to  
15           you or was at the time?

16                      PROSPECTIVE JUROR NUMBER ELEVEN: At the  
17           time, yes.

18                      MS. LOZEN: And can you tell me the color  
19           of one of the servers at the reception, the color of  
20           their hair?

21                      PROSPECTIVE JUROR NUMBER ELEVEN: Blond.

22                      MS. LOZEN: Blond?

23                      THE COURT: I think we're getting a little  
24           too far. Let's stick to the issues.

25                      MS. LOZEN: Thank you, Judge.



1 THE COURT: Yeah.

2 MS. LOZEN: Just because -- even if you  
3 could not remember someone -- the color of their hair  
4 does that mean that it didn't happen?

5 PROSPECTIVE JUROR NUMBER ELEVEN: No.

6 MS. LOZEN: Thank you. Now, I'm going to  
7 ask the group, you're going to hear testimony that the  
8 evidence in this case sat for a while before it was  
9 tested.

10 Now, just because this evidence sat for a  
11 while -- and by while I mean a few years. Actually  
12 probably about nineteen years before it was tested --  
13 does that mean that you should not give that evidence --  
14 or you shouldn't still be able to evaluate that evidence?

15 (No response)

16 MS. LOZEN: Should the jury still hear  
17 this evidence even though it wasn't tested for many, many  
18 years?

19 JURY (In unison): Yes.

20 MS. LOZEN: Okay. Miss Gable, I see you  
21 nodding your head that, yes, you could still hear this  
22 evidence and you would still evaluate this evidence?

23 PROSPECTIVE JUROR NUMBER THREE: Yes.

24 MS. LOZEN: Okay. What about juror number  
25 five, Mr. Andrzyczak?

1 PROSPECTIVE JUROR NUMBER FIVE: Yes.

2 MS. LOZEN: Okay. Could you still  
3 evaluate this evidence even though it wasn't tested for a  
4 long time?

5 PROSPECTIVE JUROR NUMBER FIVE: Yes.

6 MS. LOZEN: Okay. And you're going to  
7 hear that because this is old evidence, is this an old  
8 case and should -- just because this case happened many,  
9 many years ago if the law says it can still go forward  
10 would you, as jurors, still evaluate the case and listen  
11 to all the evidence?

12 JURY (In unison): Yes.

13 MS. LOZEN: Even though it's an old case?

14 JURY (In unison): Yes.

15 MS. LOZEN: Okay. Do you think the  
16 Defendant should not be prosecuted just cause this is an  
17 old case? Miss Young?

18 PROSPECTIVE JUROR NUMBER ONE: Would you  
19 rephrase that? I'm sorry.

20 MS. LOZEN: Just because this is an old  
21 case do you think that the Defendant should not be  
22 prosecuted?

23 PROSPECTIVE JUROR NUMBER ONE: I think  
24 that he should still be prosecuted even though it's an  
25 old case.

1 MS. LOZEN: Okay. And that a jury should  
2 still hear the evidence?

3 PROSPECTIVE JUROR NUMBER ONE: Yes.

4 MS. LOZEN: Okay. And then a jury should  
5 evaluate the evidence and make a decision on all the  
6 evidence?

7 PROSPECTIVE JUROR NUMBER ONE: Yes.

8 MS. LOZEN: Okay. Thank you, everyone.

9 THE COURT: Mr. Glenn.

10 MR. GLENN: Yes. Good morning, everyone.

11 JURY (In unison): Good morning.

12 MR. GLENN: Defense attorneys get it tough  
13 cause we go after the Judge, we go after the prosecutor  
14 and all the good questions have been asked and so I'm not  
15 going to ask the same questions cause I'll probably get  
16 the same answers, right? Everybody agree with that?

17 JURY (In unison): Yes.

18 MR. GLENN: Consistency, right? If you're  
19 being truthful and forthright, absolutely the same,  
20 right? So let us move on. Now, the Judge, during his  
21 initial instruction, indicated that the People have the  
22 burden of proving this case. Everybody remember that?

23 JURY (In unison): Yes.

24 MR. GLENN: And does everybody remember  
25 the standard of proof, beyond a reasonable doubt?

1 JURY (In unison): Yes.

2 MR. GLENN: All right. A criminal case is  
3 much different than a civil case, right?

4 JURY (In unison): Yes.

5 MR. GLENN: Not preponderance of the  
6 evidence in a civil case. In a criminal case it's beyond  
7 a reasonable doubt, right? Right?

8 JURY (In unison): Yes.

9 MR. GLENN: All right. Now, and the Judge  
10 indicated that it's not just an imaginary doubt or a  
11 fanciful doubt. It's a reason based on common sense and  
12 the evidence or lack of evidence. Everyone understands?

13 JURY (In unison): Yes.

14 MR. GLENN: Now, based upon the burden of  
15 proof a case is made up of elements. The Judge has read  
16 off some crimes to you and those crimes are made out of  
17 elements and everybody understands the prosecutor has the  
18 burden of proving all those elements? Everybody  
19 understand?

20 JURY (In unison): Yes.

21 MR. GLENN: Now, during the proceedings  
22 what's my burden? What do I have to do? Do I have to  
23 produce anything?

24 JURY (In unison): No.

25 MR. GLENN: No. All right. Do I have to

1           prove anything to you? No, right? Because my client is,  
2           what, not guilty right now, right?

3                       PROSPECTIVE JURORS: Yes.

4                       MR. GLENN: Okay. Now, how many people  
5           would think that I'm a good lawyer if all I did at that  
6           table was sit down and just, you know, draw pictures or  
7           work on crossword puzzles and just waited for the  
8           prosecutor to finish their case? How many of you think  
9           that I would be an effective lawyer doing that? Show of  
10          hands.

11                      (Hands raised)

12                      MR. GLENN: Well, my hand is up. I don't  
13          think I did such a rotten job, all right. However, at  
14          the end of this case if the prosecution hasn't proven all  
15          the elements beyond a reasonable doubt I'm going to jump  
16          up and say, hey, jury, this hasn't been proven, that  
17          hasn't been proven. You can say, well, Mr. Glenn, why  
18          didn't you say anything? Not my job. Everybody  
19          understands that?

20                      JURY (In unison): Yes.

21                      MR. GLENN: All right. And I wouldn't be  
22          in the wrong for saying that, would I?

23                      PROSPECTIVE JURORS: No.

24                      MR. GLENN: All right. Now, when I start  
25          talking about elements everyone can agree that if you

1 make a cake you need eggs and you need flour and all that  
2 kind of stuff to make a cake, right? I don't like that  
3 example. I like using another example. My example is  
4 you this morning. You're all energetic to come down to  
5 Frank Murphy to do your duty so you don't want to be  
6 late, but you get down here just a little too early and  
7 the deps won't let you in.

8 So you say, all right, I'm going to go to  
9 Greektown to get you something to eat. So you decide to  
10 go to a restaurant and you get the breakfast special,  
11 eggs any style, hash browns, bacon, toast, all right.  
12 The waitress says, how do you like the eggs? Sunny side  
13 up. Five minutes later a waitress brings your plate and  
14 the eggs aren't sunny side up. The eggs are scrambled.

15 Now, is anybody here going to argue that  
16 sunny side up eggs and scrambled eggs are both eggs?  
17 Right? Anybody that would say that's not true?

18 (No response)

19 MR. GLENN: But the preparation of the  
20 eggs and the way that they were presented, is that  
21 important?

22 (No response)

23 MR. GLENN: How many people who ordered  
24 sunny side up and they got scrambled eggs would pay for  
25 it?

1 (No response)

2 MR. GLENN: No one?

3 (Hands raised)

4 MR. GLENN: I see one hand here. That  
5 wouldn't be important for you?

6 PROSPECTIVE JUROR NUMBER THREE: Not so  
7 important I wouldn't pay for it.

8 MR. GLENN: All right. Well, let me put  
9 it this way. You'd say, ma'am -- talk to the waitress --  
10 this isn't the one I ordered, please make it right, take  
11 it back and give me what I ordered, and if they don't do  
12 it, then you leave, right? That would be fair, right?

13 (No response)

14 MR. GLENN: Okay. So preparation,  
15 presentation are all important, just as important as the  
16 elements, but let me ask another -- pick another example  
17 here. Let's say day two, tomorrow, you come in.

18 Man, day number one was better than I  
19 could imagine. I definitely don't want to miss this.  
20 So, once again, you get down here early and you say,  
21 well, I'm not going to go to the restaurant that messed  
22 up my eggs. I'm going to go to another restaurant and  
23 order the same thing, and the waitress brings your plate.  
24 You sit down and get ready to eat and you notice the  
25 plate's dirty. Now, some things go without saying.

1           Utensils, plates, glasses, all that needs to be clean,  
2           right? Everybody --

3                       JURY (In unison): Yes.

4                       MR. GLENN: All right. Just because  
5           somebody presented something to you and it matches all of  
6           the elements that you ordered, it is presented to you on  
7           a dirty plate, would you accept it?

8                       (No response)

9                       MR. GLENN: Send it back, right? Now,  
10          something that's a little more tricky. Day number three.  
11          The lawyers are talking and they won't show up, but I  
12          still want to come down here and do my duty. So you go  
13          to a third restaurant and you're in the restaurant eating  
14          your food and someone says, hey, this plate's dirty, and  
15          you start thinking, my plate appeared to be clean, but  
16          was it? Now, a plate that appears to be clean, but is  
17          dirty, is that something you should accept? Anybody  
18          going to do that?

19                      JURY (In unison): No.

20                      MR. GLENN: Absolutely not. You're more  
21          troubled by that, right? Because you're presented  
22          something to you that appeared to be clean, presentable,  
23          but it wasn't, right? So, everyone understands that in a  
24          court of law the evidence that's presented to you must be  
25          done with clean hands? This is a court of law. You



1 can't come to court with dirty hands or color the truth  
2 or leave things out. In other words, presentation is  
3 important. Everyone understands that?

4 (No response)

5 MR. GLENN: Now, lawyers are kind of all  
6 over the place with questions and sometimes you may not  
7 figure out what the lawyers are getting at 'til the end  
8 of the trial. Now, any C.S.I. fans here?

9 (No response)

10 MR. GLENN: No C.S.I. fans?

11 (Hands raised)

12 MR. GLENN: Just two? All right. Okay.  
13 So if you come down here and we don't have fingerprints  
14 or, you know, we don't have ballistics or firearm  
15 evidence or we don't have DNA that wouldn't bother  
16 anybody?

17 (No response)

18 MR. GLENN: No? All right. But this is  
19 not a TV show, though, right? You can't just look at the  
20 clock and say, ah, it's a quarter to four and that means  
21 that the case is about over with, right? It takes as  
22 long as it takes. Everybody understands that?

23 (No response)

24 MR. GLENN: And does everybody understand  
25 that when a witness is on the witness stand answering

1 questions, all the questions that we ask and all the  
2 answers that we're trying to get are important. So it's  
3 important to listen. Let me put this out. Can everyone  
4 realize that a very big point could be made in a very  
5 subtle way? People understand that?

6 (No response)

7 MR. GLENN: Okay. And there won't be any  
8 music helping you out or da da da da, or they zoom in on  
9 the camera or anything like that like you see on TV? You  
10 won't get that, right? Everybody understand?

11 JURY (In unison): Yes.

12 MR. GLENN: Okay. Now, if I were to ask  
13 you a question of a self assessment and I would ask you,  
14 are you a leader or are you a follower, how many leaders  
15 do I have?

16 (Hands raised)

17 MR. GLENN: Okay. How many followers out  
18 there?

19 (Hands raised)

20 MR. GLENN: Just one? All right. Now,  
21 can anyone tell me the rationale of that question?

22 (No response)

23 MR. GLENN: Probably not. If I put this  
24 out, the leaders lead and followers follow, what would  
25 that mean?

1 (No response)

2 MR. GLENN: That means if I find the  
3 leader of the strong personality that's the person that's  
4 going to lead the followers. Everybody understand that?  
5 If you're going to sit on this jury you must be a leader,  
6 meaning you must speak up. Everybody understands?

7 JURY (In unison): Yes.

8 MR. GLENN: It means that your vote must  
9 be your own vote. No proxy voting. Anybody vote proxy?  
10 Anybody know what a proxy is? Except for lawyers, no  
11 lawyers. Anybody know what a proxy vote is? That means  
12 giving your vote to someone else, like if we get one of  
13 those little flyers and it's got insurance and stuff and  
14 you say, well, I don't know the subject matter. I can't  
15 go so I'm going to sign and give my vote to someone else.  
16 We don't have that here.

17 You can't just sit there and say, well,  
18 you know, this is something I don't want to get involved  
19 with, so the rest of you eleven jurors you come together  
20 on something, I'll just go along with it. That's not  
21 justice. Everyone must vote their conscience, right?

22 Now, last question. Is there anything  
23 that any one of us has not asked you that you think we  
24 should know before we go any farther?

25 (No response)

1 MR. GLENN: See, summertime is coming up  
2 and you know you go to Cedar Point and you get in one of  
3 those two hour lines and get on one of the real scary  
4 rides and you're inching closer and closer to the top of  
5 the roller coaster and you say, I don't know if I really  
6 want to do this. It's something that I haven't said  
7 before, and once you hop in the roller coaster and it  
8 starts going up the hill you say, wait a minute, I can't  
9 do this. It's too late, isn't it?

10 So that's why I'm asking you this question  
11 right now. Everyone understands the subject matter of  
12 this case? It's criminal sexual conduct, right? So  
13 everyone understands that it would be graphic or strong  
14 sexual context? Isn't that how they rated R things on  
15 TV, strong sexual content for the movies? Everybody  
16 understand that? That's what you can expect here. Is  
17 that going to bother anyone?

18 (No response)

19 MR. GLENN: Okay. That's all I have, your  
20 Honor. Thank you.

21 THE COURT: Challenges for cause are on  
22 you, Miss Lozen.

23 MS. LOZEN: No cause, Judge.

24 THE COURT: Mr. Glenn?

25 MR. GLENN: Pass for cause.

1 THE COURT: Peremptory challenges are on  
2 you, Mrs. Lozen.

3 MS. LOZEN: One second, Judge.

4 THE COURT: Let's go. You had time to  
5 review it.

6 MS. LOZEN: Judge, we'd like to thank and  
7 excuse juror number one, juror number eight and juror  
8 number fourteen.

9 THE COURT: One, eight and fourteen, is  
10 that correct?

11 MS. LOZEN: Yes, Judge.

12 THE COURT: Okay. Ma'am, you may step  
13 down. Number eight is, yes, you, ma'am, and number  
14 fourteen. Thank you. You may return to the jury room.

15 COURT CLERK: Garza, G-a-r-z-a, Ana, seat  
16 number one. Cook, C-o-o-k, Maurica, seat number eight.  
17 Baker, B-a-k-e-r, Jeremiah, seat number fourteen.

18 THE COURT: All right. Mrs. Garza, have  
19 you heard all the questions I've asked of the previous  
20 jurors? I know you told me something about your  
21 babysitting problem, but so far have you heard all the  
22 questions I've asked of the jurors who have been seated  
23 in the box?

24 PROSPECTIVE JUROR NUMBER ONE: Yes.

25 THE COURT: You have to answer yes and you

1 have to answer loud enough. He's trying to write down  
2 everything you say. Okay. Do you, or a close friend or  
3 relative -- what type of work are you involved in, first  
4 thing?

5 PROSPECTIVE JUROR NUMBER ONE: I'm a stay  
6 at home mom.

7 THE COURT: Okay. What type of work does  
8 your husband do?

9 PROSPECTIVE JUROR NUMBER ONE: He works  
10 at a meat supply company.

11 THE COURT: Okay. Have you, a close  
12 friend or relative of yours ever been the victim of a  
13 crime?

14 PROSPECTIVE JUROR NUMBER ONE: Yes.

15 THE COURT: What happened?

16 PROSPECTIVE JUROR NUMBER ONE: My cousin  
17 was sentenced to --

18 THE COURT: Well, he was charged with a  
19 crime. Right now we're dealing with victims. I'm going  
20 to get to that. Has anybody ever robbed you or robbed  
21 somebody or stole somebody's car, broken into somebody's  
22 house that you know?

23 PROSPECTIVE JUROR NUMBER ONE: My uncle  
24 was murdered.

25 THE COURT: How long ago was that?

1 PROSPECTIVE JUROR NUMBER ONE: Four years  
2 ago.

3 THE COURT: Here in the city of Detroit?

4 PROSPECTIVE JUROR NUMBER ONE: Yes.

5 THE COURT: Okay. Did you attend any of  
6 the court hearings with that? Was anyone arrested?  
7 Let's put it that way.

8 PROSPECTIVE JUROR NUMBER ONE: No.

9 THE COURT: So far the crime was not been  
10 solved?

11 PROSPECTIVE JUROR NUMBER ONE: No, it  
12 hasn't.

13 THE COURT: Okay. You all don't know who  
14 did it?

15 PROSPECTIVE JUROR NUMBER ONE: No.

16 THE COURT: Or who allegedly did it, is  
17 that correct?

18 PROSPECTIVE JUROR NUMBER ONE: Correct.

19 THE COURT: Do you think you can put that  
20 out of your mind and be a fair and impartial juror?

21 PROSPECTIVE JUROR NUMBER ONE: Yes.

22 THE COURT: You do? Okay. Well, let me  
23 ask you this. Are you satisfied with the way that the  
24 Prosecutor's Office and the police have handled it so  
25 far?

1 PROSPECTIVE JUROR NUMBER ONE: No.  
2 THE COURT: You're not?  
3 PROSPECTIVE JUROR NUMBER ONE: No.  
4 THE COURT: You don't think they've been  
5 doing their job?  
6 PROSPECTIVE JUROR NUMBER ONE: No.  
7 THE COURT: That creates a problem. Miss  
8 Lozen and Mr. Glenn, any objections to me excusing her?  
9 MS. LOZEN: No, Judge.  
10 MR. GLENN: No.  
11 THE COURT: You may step down, ma'am.  
12 This way. Go right through here and you come around  
13 behind me to where the deputies are over there, okay.  
14 Okay. Thank you.  
15 COURT CLERK: Rice, R-i-c-e, Nolita, seat  
16 number one.  
17 THE COURT: Okay. Miss Rice, I heard you  
18 tell me about you're the big moneymaker and we don't pay  
19 you enough down here and I'll agree to that, but I can't  
20 excuse you for that, ma'am.  
21 PROSPECTIVE JUROR NUMBER ONE: All right.  
22 THE COURT: Miss Rice, where do you work?  
23 PROSPECTIVE JUROR NUMBER ONE: I work at  
24 a TV station.  
25 THE COURT: Which one?



1 PROSPECTIVE JUROR NUMBER ONE: I prefer  
2 not to say.

3 THE COURT: Well, is it a local TV  
4 station?

5 PROSPECTIVE JUROR NUMBER ONE: Yes.

6 THE COURT: Nobody's going to come up  
7 looking for you.

8 PROSPECTIVE JUROR NUMBER ONE: They might  
9 cover the story.

10 THE COURT: I doubt it. Yeah. Well, let  
11 me ask you this. Are you married?

12 PROSPECTIVE JUROR NUMBER ONE: I'm  
13 separated.

14 THE COURT: Okay. What type of work did  
15 your husband do when you were together?

16 PROSPECTIVE JUROR NUMBER ONE: Blue  
17 collar.

18 THE COURT: Blue collar work?

19 PROSPECTIVE JUROR NUMBER ONE: Yes.

20 THE COURT: Okay. Have you or a close  
21 friend of yours ever been the victim of a crime?

22 PROSPECTIVE JUROR NUMBER ONE: Yes.

23 THE COURT: What happened?

24 PROSPECTIVE JUROR NUMBER ONE: Murder,  
25 robbery.

1 THE COURT: Well, let's start with the  
2 murder. Who was murdered and what happened? Was anyone  
3 arrested for it?

4 PROSPECTIVE JUROR NUMBER ONE: No.

5 THE COURT: Who was murdered?

6 PROSPECTIVE JUROR NUMBER ONE: Oh, one of  
7 my relatives.

8 THE COURT: Okay. What about anybody  
9 else?

10 PROSPECTIVE JUROR NUMBER ONE: Um, I  
11 mean, just robbery.

12 THE COURT: Ma'am, those are serious  
13 crimes. We need to know something about 'em so we can  
14 make a judgment as to whether or not you are fit to serve  
15 on this jury. Is this a very, very important duty that  
16 you're performing today, very important.

17 PROSPECTIVE JUROR NUMBER ONE: Well, I  
18 don't like giving my personal business. It's out in the  
19 open, very --

20 THE COURT: Well, hold it now. Hold it.  
21 You know, it's not a matter -- as I indicated earlier  
22 we're not asking these questions just to pry into your  
23 business, but they're questions we need to know in order  
24 to make an informed decision as to whether or not you're  
25 competent to serve on this jury.

1                   We're not trying to pry into your  
2                   business. All the other jurors have answered the  
3                   questions. No one comes down here wanting to give out  
4                   their personal information, but it's required of you by  
5                   law.

6                   PROSPECTIVE JUROR NUMBER ONE:   Your  
7                   Honor, I'm not trying to be difficult. I mean, if it was  
8                   like you asking this behind closed doors --

9                   THE COURT: Well, the courts have to be  
10                  open. The law says it must be open. I can't close this  
11                  courtroom up. I would be violating the law as to the  
12                  People and the Defendant so you have to answer the  
13                  question. No one's going to bother you.

14                  I've been doing this thirty years and I've  
15                  not had one case where a juror was attacked or anything  
16                  said to them and, believe me, we have ways to deal with  
17                  people who mess with jurors if they do. So you're in no  
18                  danger here.

19                  PROSPECTIVE JUROR NUMBER ONE:   I mean, I  
20                  see some of these people on the street. I'm going to  
21                  remember what they said.

22                  THE COURT: They're not going to remember  
23                  you, though.

24                  PROSPECTIVE JUROR NUMBER ONE:   Okay.

25                  THE COURT: They're not going to remember

1       you. Believe me, you're the last person they will  
2       remember.

3                   PROSPECTIVE JUROR NUMBER ONE:    Okay.

4                   THE COURT:   Okay.   So let's get back to  
5       you've been the victim of a crime?

6                   PROSPECTIVE JUROR NUMBER ONE:    Yes.

7                   THE COURT:   What type of crime were you  
8       personally convicted of -- not convicted -- that you were  
9       personally the victim of?

10                  PROSPECTIVE JUROR NUMBER ONE:    Robbery.

11                  THE COURT:   Okay.   How long ago was that?

12                  PROSPECTIVE JUROR NUMBER ONE:    About --  
13       say about nine years ago.

14                  THE COURT:   Okay.   Was anyone prosecuted  
15       for that?

16                  PROSPECTIVE JUROR NUMBER ONE:    No.

17                  THE COURT:   Was anyone ever arrested for  
18       it?

19                  PROSPECTIVE JUROR NUMBER ONE:    No.

20                  THE COURT:   Okay.   Can you put that out of  
21       your mind to be a fair and impartial juror?

22                  PROSPECTIVE JUROR NUMBER ONE:    Um, I  
23       think about it all the time.

24                  THE COURT:   Okay.   I figured that was  
25       coming.   Okay.   I'll have to excuse you.   Miss Lozen and

1 Mr. Glenn, do you have any objection?  
2 MS. LOZEN: No objection.  
3 MR. GLENN: No objection.  
4 THE COURT: You may return back to the  
5 first floor.  
6 PROSPECTIVE JUROR NUMBER ONE: Thank you.  
7 COURT CLERK: Alexander,  
8 A-l-e-x-a-n-d-e-r, Elizabeth, seat number one.  
9 THE COURT: Miss Alexander, have you heard  
10 the questions that have been asked so far?  
11 PROSPECTIVE JUROR NUMBER ONE: Yes.  
12 THE COURT: Which one of your answers are  
13 going to be different? I put a trick on you by changing  
14 the way I asked the question, didn't I?  
15 PROSPECTIVE JUROR NUMBER ONE: Yes.  
16 THE COURT: Have you, a close friend or  
17 relative of yours ever been the victim of a crime?  
18 PROSPECTIVE JUROR NUMBER ONE: No.  
19 THE COURT: Do you have any close friend  
20 or relatives members of a law enforcement agency?  
21 PROSPECTIVE JUROR NUMBER ONE: No, sir.  
22 THE COURT: You heard the nature of the  
23 charges that I read about this being a criminal sexual  
24 assault. Did you understand that?  
25 PROSPECTIVE JUROR NUMBER ONE: Yes.

1 THE COURT: Is there anything in your  
2 background that would make you adverse to sitting on a  
3 case like this?

4 PROSPECTIVE JUROR NUMBER ONE: No, sir.

5 THE COURT: You're not -- I shouldn't say  
6 you're not concerned, but you could judge this case  
7 solely on the facts as they come from the witness stand  
8 and not on the basis of your personal opinion about these  
9 type of crimes? Cause we do all have our personal  
10 opinions. Do you understand that?

11 PROSPECTIVE JUROR NUMBER ONE: Right.

12 THE COURT: Okay. What type of work are  
13 you involved in, if it's outside the home?

14 PROSPECTIVE JUROR NUMBER ONE: I work at  
15 Walgreens right now.

16 THE COURT: Okay. You don't work on the  
17 one on Jefferson and Mt. Elliott, do you?

18 PROSPECTIVE JUROR NUMBER ONE: No.

19 THE COURT: They know me personally, I go  
20 in there so much, you know. Okay. Do you have any close  
21 friend or relatives that are members of a law enforcement  
22 agency?

23 PROSPECTIVE JUROR NUMBER ONE: No.

24 THE COURT: Okay. Do you know of any  
25 reason why you could not be a fair and impartial juror?

1 PROSPECTIVE JUROR NUMBER ONE: No.

2 THE COURT: Okay. All right. Who was  
3 next? Juror number eight -- is it eight? Yeah. Juror  
4 number eight, what type of work are you involved in,  
5 ma'am, if it's outside the home?

6 PROSPECTIVE JUROR NUMBER EIGHT: Yes, I'm  
7 a direct care worker.

8 THE COURT: I can't hear you.

9 PROSPECTIVE JUROR NUMBER EIGHT: I'm a  
10 direct care worker.

11 THE COURT: Okay. Okay. You take care of  
12 people in the homes?

13 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

14 THE COURT: Okay. Are you married?

15 PROSPECTIVE JUROR NUMBER EIGHT: No.

16 THE COURT: Okay. Have you, a close  
17 friend or relative of yours ever been the victim of a  
18 crime?

19 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

20 THE COURT: What happened, ma'am?

21 PROSPECTIVE JUROR NUMBER EIGHT: My  
22 brother was murdered.

23 THE COURT: How long ago was that?

24 PROSPECTIVE JUROR NUMBER EIGHT: Um,  
25 2015.

1 THE COURT: That's this last year?  
2 PROSPECTIVE JUROR NUMBER EIGHT: Uh-huh.  
3 THE COURT: And was anyone arrested for  
4 that?  
5 PROSPECTIVE JUROR NUMBER EIGHT: No.  
6 THE COURT: So the case is still under  
7 investigation?  
8 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
9 THE COURT: This was a traumatic  
10 experience for you and your family, is that correct?  
11 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
12 THE COURT: Can you put that out of your  
13 mind and be a fair and impartial juror?  
14 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
15 THE COURT: Okay. Do you know of the  
16 circumstances that he was killed?  
17 PROSPECTIVE JUROR NUMBER EIGHT: Do I  
18 know --  
19 THE COURT: Was it during a robbery or  
20 something like that?  
21 PROSPECTIVE JUROR NUMBER EIGHT: No, he  
22 was killed --  
23 THE COURT: Arguing with someone?  
24 PROSPECTIVE JUROR NUMBER EIGHT: No,  
25 somebody shot up his car.



1 THE COURT: Shot up his car?  
2 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
3 THE COURT: Okay. Were you interviewed by  
4 the police?  
5 PROSPECTIVE JUROR NUMBER EIGHT: No.  
6 THE COURT: Okay. You just talked about  
7 it with your family?  
8 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
9 THE COURT: Okay. Any other things have  
10 happened like that in your family, friend?  
11 PROSPECTIVE JUROR NUMBER EIGHT: Not that  
12 I can think of, no.  
13 THE COURT: Okay. Now, you realize that  
14 even though no one has been arrested you can't hold that  
15 against the prosecution or the defense in this case. Do  
16 you understand that?  
17 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
18 THE COURT: That case has nothing to do  
19 with this case. Do you understand that?  
20 PROSPECTIVE JUROR NUMBER EIGHT: Yes.  
21 THE COURT: Okay. Do you work for an  
22 agency or do you work for yourself?  
23 PROSPECTIVE JUROR NUMBER EIGHT: I work  
24 for a company.  
25 THE COURT: For a company, okay. Do you

1 have any close friend or relatives who are members of a  
2 law enforcement agency?

3 PROSPECTIVE JUROR NUMBER EIGHT: No.

4 THE COURT: All right. And do you know of  
5 any reason why you could not be a fair and impartial  
6 juror?

7 PROSPECTIVE JUROR NUMBER EIGHT: No.

8 THE COURT: Okay. Juror number fourteen,  
9 your name, sir?

10 PROSPECTIVE JUROR NUMBER FOURTEEN:  
11 Jeremiah Baker.

12 THE COURT: Mr. Baker, what type of work  
13 are you involved in?

14 PROSPECTIVE JUROR NUMBER FOURTEEN: I'm a  
15 musician and I work alongside my father.

16 THE COURT: What type of work does your  
17 father do?

18 PROSPECTIVE JUROR NUMBER FOURTEEN: He  
19 owns a business called Nick & Houses, flipping, buying  
20 selling properties.

21 THE COURT: Oh, okay. So you fix up  
22 houses?

23 PROSPECTIVE JUROR NUMBER FOURTEEN: Yeah.

24 THE COURT: Okay. Have you, a close  
25 friend or relative ever been the victim of a crime?

1 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
2 THE COURT: What happened?  
3 PROSPECTIVE JUROR NUMBER FOURTEEN: A  
4 couple months ago somebody robbed the house. Well, tried  
5 to rob the house.  
6 THE COURT: Tried to break in your house?  
7 Were you there?  
8 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
9 THE COURT: What turned them back?  
10 PROSPECTIVE JUROR NUMBER FOURTEEN:  
11 Pardon?  
12 THE COURT: Huh?  
13 PROSPECTIVE JUROR NUMBER FOURTEEN: Say  
14 that one more time.  
15 THE COURT: What stopped 'em? You said  
16 they tried.  
17 PROSPECTIVE JUROR NUMBER FOURTEEN: Yeah,  
18 me.  
19 THE COURT: Oh. Did you confront him?  
20 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
21 THE COURT: And was anyone arrested for  
22 that?  
23 PROSPECTIVE JUROR NUMBER FOURTEEN: No,  
24 sir.  
25 THE COURT: Okay. So were the police

1           called?

2                       PROSPECTIVE JUROR NUMBER FOURTEEN:   Yes.

3                       THE COURT:   Were you satisfied the way the

4           police handled it?

5                       PROSPECTIVE JUROR NUMBER FOURTEEN:   Yes,

6           sir.

7                       THE COURT:   Okay.   Anything else?

8                       PROSPECTIVE JUROR NUMBER FOURTEEN:   No.

9                       THE COURT:   Okay.   And do you have any

10          close friends or relatives who have been charged with a

11          crime?

12                      PROSPECTIVE JUROR NUMBER FOURTEEN:   Yes,

13          sir.

14                      THE COURT:   What happened?

15                      PROSPECTIVE JUROR NUMBER FOURTEEN:   Ah,

16          one of my oldest brothers he's currently serving in

17          Jackson for armed robbery.

18                      THE COURT:   How long ago was that?

19                      PROSPECTIVE JUROR NUMBER FOURTEEN:   2013.

20                      THE COURT:   Okay.   Were you involved in

21          the court case coming down here?

22                      PROSPECTIVE JUROR NUMBER FOURTEEN:   No,

23          sir.

24                      THE COURT:   You talked about it in the

25          family?

1 PROSPECTIVE JUROR NUMBER FOURTEEN:

2 Briefly.

3 THE COURT: Briefly. Has anything about  
4 that case poisoned you either for the defense lawyer or  
5 for the prosecution?

6 PROSPECTIVE JUROR NUMBER FOURTEEN: No,  
7 sir.

8 THE COURT: You can put that out of your  
9 mind and be a fair and impartial juror?

10 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes,  
11 sir.

12 THE COURT: And do you have any close  
13 friends or relatives who are members of a law enforcement  
14 agent?

15 PROSPECTIVE JUROR NUMBER FOURTEEN: No,  
16 sir.

17 THE COURT: Okay. What type of music do  
18 you play?

19 PROSPECTIVE JUROR NUMBER FOURTEEN: I  
20 actually play for a bunch of different churches.

21 THE COURT: Oh, okay. You're a church  
22 musician?

23 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes,  
24 sir.

25 THE COURT: You play gospel music?

1 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes,  
2 sir.

3 THE COURT: Oh, good. I like it. I  
4 listen to Kirk Franklin on my XL radio on Sunday morning.

5 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes,  
6 sir.

7 THE COURT: Okay. Do you know of any  
8 reason why you could not be a fair and impartial juror?

9 PROSPECTIVE JUROR NUMBER FOURTEEN: No,  
10 sir.

11 THE COURT: Okay. Miss Lozen, it's on  
12 you.

13 MS. LOZEN: Thank you, Judge. Okay. This  
14 is just for our new jurors. I want to ask Miss  
15 Alexander, and do you -- you indicated you do not have  
16 any family or friends in law enforcement and no one's  
17 been the victim of a crime?

18 PROSPECTIVE JUROR NUMBER ONE: No, sir.

19 MS. LOZEN: Do you know anyone who's been  
20 sexually assaulted even if it wasn't reported to the  
21 police?

22 PROSPECTIVE JUROR NUMBER ONE: No.

23 MS. LOZEN: Okay. What about anyone was  
24 accused of a sexual assault?

25 PROSPECTIVE JUROR NUMBER ONE: No.

1 MS. LOZEN: Even if it wasn't reported.

2 PROSPECTIVE JUROR NUMBER ONE: Right, no.

3 MS. LOZEN: Okay. And, Miss Cook, you  
4 indicated that you had a brother who was murdered in  
5 2015. Sorry for your loss.

6 PROSPECTIVE JUROR NUMBER EIGHT: Thank  
7 you.

8 MS. LOZEN: I just want to ask if you  
9 thought that the Defendant in that case was treated  
10 fairly?

11 PROSPECTIVE JUROR NUMBER EIGHT: I don't  
12 know who it is.

13 MS. LOZEN: Okay. Well, no one was  
14 arrested you indicated?

15 PROSPECTIVE JUROR NUMBER EIGHT: Right.

16 MS. LOZEN: Okay. Do you think the police  
17 handled that case properly?

18 PROSPECTIVE JUROR NUMBER EIGHT: Yeah, I  
19 guess.

20 MS. LOZEN: You said, yes, you guess?

21 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

22 MS. LOZEN: Thank you. And do you think  
23 your family was treated properly?

24 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.

25 MS. LOZEN: Was your family treated

1 fairly?

2 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.

3 MS. LOZEN: And, Mr. Baker, correct?

4 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.

5 MS. LOZEN: You indicated someone tried to

6 break in your home, but no one was arrested?

7 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.

8 MS. LOZEN: Again, I'm sorry for that.

9 And can you tell me if you thought the police handled the

10 case properly?

11 PROSPECTIVE JUROR NUMBER FOURTEEN: They

12 did.

13 MS. LOZEN: And were you satisfied with

14 the way the police handled the case?

15 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.

16 MS. LOZEN: And, now, Miss Cook, do you

17 know anyone who's been sexually assaulted even if it

18 wasn't reported to the police?

19 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

20 MS. LOZEN: Okay. Who would that be?

21 PROSPECTIVE JUROR NUMBER EIGHT: My

22 cousin.

23 MS. LOZEN: Your cousin?

24 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

25 MS. LOZEN: And if you know, do you know



1           why it was not reported to the police?

2                       PROSPECTIVE JUROR NUMBER EIGHT:    I

3           don't -- I don't know why.

4                       MS. LOZEN:  You don't know why.  Okay.  Do  
5           you and her talk about it?

6                       PROSPECTIVE JUROR NUMBER EIGHT:  We  
7           have -- this was a long time ago.  It was maybe ten years  
8           ago.  We don't talk about it now.

9                       MS. LOZEN:  Okay.  And, Mr. Baker, do you  
10          know anyone who has been sexually assaulted?

11                      PROSPECTIVE JUROR NUMBER FOURTEEN:  No.

12                      MS. LOZEN:  Even if it wasn't reported to  
13          the police?

14                      PROSPECTIVE JUROR NUMBER FOURTEEN:  No.

15                      MS. LOZEN:  Okay.  Miss Baker, do you know  
16          anyone who had been accused of a sexual assault even if  
17          it wasn't reported?

18                      PROSPECTIVE JUROR NUMBER EIGHT:  I'm  
19          Cook.

20                      MS. LOZEN:  Miss Cook, I'm sorry.

21                      PROSPECTIVE JUROR NUMBER EIGHT:  Ah, I'm  
22          sorry.  Say that one more time.

23                      MS. LOZEN:  Do you know anyone who's been  
24          accused of a sexual assault even if it wasn't reported?

25                      PROSPECTIVE JUROR NUMBER EIGHT:  No.

1 MS. LOZEN: Okay. And, Mr. Baker, was  
2 anyone accused of a sexual assault?

3 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

4 MS. LOZEN: No? Okay. And now I want to  
5 ask you the question about going on a blind date and then  
6 if the two individuals have sex on that first date do you  
7 have a problem with that?

8 PROSPECTIVE JUROR NUMBER EIGHT: No.

9 MS. LOZEN: Do you necessarily have an  
10 issue with the fact or do you approve of that behavior at  
11 all or have an opinion about that?

12 PROSPECTIVE JUROR NUMBER EIGHT: To each  
13 his own.

14 MS. LOZEN: To each his own. Thank you.  
15 Now, say a woman and a man have sex on the first date and  
16 then the woman is subsequently raped afterwards, did she  
17 give anyone permission to rape her --

18 PROSPECTIVE JUROR NUMBER EIGHT: No.

19 MS. LOZEN: -- just because she had sex on  
20 the first date?

21 PROSPECTIVE JUROR NUMBER EIGHT: No.

22 MS. LOZEN: Okay. And do you agree with  
23 me that the law applies and protects everyone?

24 PROSPECTIVE JUROR NUMBER EIGHT: No.

25 MS. LOZEN: You don't agree with me?

1 Okay. Is there a reason why you don't agree with me?

2 PROSPECTIVE JUROR NUMBER EIGHT: Ah, I  
3 just -- I personally believe that there is a lot of  
4 prejudice when it comes to the law. I'm not saying  
5 necessarily here, but with certain people.

6 MS. LOZEN: Okay. Prejudice to who?

7 PROSPECTIVE JUROR NUMBER EIGHT: Like I  
8 said, certain people, they get treated differently in  
9 dealing with the law.

10 MS. LOZEN: But who would be treated  
11 differently? Like who?

12 PROSPECTIVE JUROR NUMBER EIGHT: Black  
13 people.

14 MS. LOZEN: Black people, okay. Do you  
15 agree that you'll evaluate this case, the facts, on its  
16 own?

17 PROSPECTIVE JUROR NUMBER EIGHT: Oh,  
18 yeah.

19 MS. LOZEN: And you agree that, again,  
20 police that come in here, are you going to evaluate their  
21 testimony on your own?

22 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.

23 MS. LOZEN: Miss Alexander, do you agree  
24 that -- or do you have an issue with someone who has sex  
25 on the first date?

1 PROSPECTIVE JUROR NUMBER ONE: No.

2 MS. LOZEN: And do you believe if a woman  
3 does have sex on the first date and then is subsequently  
4 raped, did she deserve to be raped?

5 PROSPECTIVE JUROR NUMBER ONE: No, she  
6 did not.

7 MS. LOZEN: Okay. Mr. Baker, do you have  
8 an issue with someone having sex on the first date?

9 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

10 MS. LOZEN: Okay. And then if a woman is  
11 subsequently raped after the first date does she give  
12 permission to be raped later on?

13 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

14 MS. LOZEN: Okay. And you're going to  
15 hear, Miss Alexander, that there's old evidence in this  
16 case. Do you have an issue with this case dating back to  
17 1996?

18 PROSPECTIVE JUROR NUMBER ONE: No.

19 MS. LOZEN: Okay. And just because it's  
20 from 1996 do you think this case should not go forward?

21 PROSPECTIVE JUROR NUMBER ONE: No.

22 MS. LOZEN: Okay. Do you think the  
23 Defendant should not be prosecuted just because this case  
24 occurred in 1996?

25 PROSPECTIVE JUROR NUMBER ONE: No.

1 MS. LOZEN: Okay. What about you, Miss  
2 Cook? Just because this case is from '96 do you think it  
3 should not go forward?

4 PROSPECTIVE JUROR NUMBER EIGHT: No.

5 MS. LOZEN: Okay. So you're willing to  
6 listen -- still willing to listen to all the evidence and  
7 evaluate all the evidence?

8 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.

9 MS. LOZEN: Okay. And, Mr. Baker, just  
10 because this is from 1996 do you have an issue with this  
11 case at all?

12 PROSPECTIVE JUROR NUMBER FOURTEEN: No.

13 MS. LOZEN: Okay. Now, again for our new  
14 jurors, if somebody walks into a convenience store and  
15 demands money from a convenience store clerk and that  
16 clerk voluntarily gives up the money would you expect  
17 that clerk to fight back?

18 PROSPECTIVE JUROR NUMBER EIGHT: No.

19 MS. LOZEN: Okay. So if, Miss Baker, if  
20 somebody -- Miss Cook, I'm sorry, Miss Cook, if somebody  
21 points a gun at a convenience clerk and they voluntarily  
22 give the money would you expect them to fight back?

23 PROSPECTIVE JUROR NUMBER EIGHT: No.

24 MS. LOZEN: Okay. And do you think that  
25 the clerk consented by simply giving that money up did

1           that clerk want to give that money up?

2                       PROSPECTIVE JUROR NUMBER ONE:    Oh, no,  
3           not if they had a gun pointed at them.

4                       MS. LOZEN:   Okay.   And so that victim of  
5           that robbery did not consent to giving that money up even  
6           though they didn't fight back, they did not consent?

7                       PROSPECTIVE JUROR NUMBER ONE:    Right.

8                       MS. LOZEN:   Okay.   What about you, Mr.  
9           Baker, do you think that if somebody points a gun at a  
10          convenience store clerk and then demands money does that  
11          clerk have to fight back?

12                      PROSPECTIVE JUROR NUMBER FOURTEEN:   No.

13                      MS. LOZEN:   Okay.   And if they voluntarily  
14          give up the money are they consenting to give up that  
15          money?

16                      PROSPECTIVE JUROR NUMBER FOURTEEN:   No.

17                      MS. LOZEN:   Nothing further, Judge.

18                      THE COURT:   Mr. Glenn.

19                      MR. GLENN:   No questions.

20                      THE COURT:   Okay.   Challenge for cause are  
21          to you, Miss Lozen.

22                      MS. LOZEN:   None for cause, Judge.

23                      THE COURT:   Challenges for cause on you.

24                      MR. GLENN:   Pass for cause.

25                      THE COURT:   Peremptories are on you.

1 MR. GLENN: The juror seated in number  
2 three, number six and thirteen.

3 THE COURT: Okay. Miss Gable, that's you.  
4 Number thirteen is Embry-Barnes and number six is Mr.  
5 Rogala -- no, no, Mr. Mems. Is that right, Mr. --

6 MR. GLENN: Right.

7 THE COURT: Six is Mr. Mems.

8 MR. GLENN: Right.

9 PROSPECTIVE JUROR: Go this way?

10 THE COURT: Yes, you can go this way. I  
11 let her go that way cause she was closer to the  
12 detective. You can go this way, Mr. Rogala, if you want  
13 to. Come on. Come on.

14 COURT CLERK: McNamara, M-c-N-a-m-a-r-a,  
15 Michael, seat number three. Last name is S-k-l-u-z-a-k,  
16 Richard, seat number six. Brown, B-r-o-w-n, Lauren, seat  
17 number thirteen.

18 THE COURT: Okay. Mr. McNamara, what type  
19 of work are you involved in, sir?

20 PROSPECTIVE JUROR NUMBER THREE: I'm a  
21 lawyer.

22 THE COURT: What type of law do you  
23 practice?

24 PROSPECTIVE JUROR NUMBER THREE: I do  
25 prosecution for the city of Westland as well as have

1 private clients, a general practice.

2 THE COURT: I used to be a prosecutor for  
3 Westland many years ago. Many years ago. I can't think  
4 of what Judge was out there. It's been a long time. I'm  
5 sure he's not around anymore. Okay. Is your wife  
6 employed outside the home?

7 PROSPECTIVE JUROR NUMBER THREE: I'm  
8 divorced.

9 THE COURT: Okay. When you were together  
10 what type of work did she do?

11 PROSPECTIVE JUROR NUMBER THREE: Real  
12 estate.

13 THE COURT: Okay. Have you, a close  
14 friend or relative of yours ever been the victim of a  
15 crime?

16 PROSPECTIVE JUROR NUMBER THREE: No.

17 THE COURT: Okay. Do you have any close  
18 friends or relatives who have been members of a law  
19 enforcement agency?

20 PROSPECTIVE JUROR NUMBER THREE: I have  
21 some friends. I would -- Sheriff Moug I've known for  
22 over forty years.

23 THE COURT: Okay. Okay. Were you -- as a  
24 lawyer you realize you have to give that testimony the  
25 same weight and credibility as that of any other witness?



1           Could you do that?

2                       PROSPECTIVE JUROR NUMBER THREE: Yes, your  
3 Honor.

4                       THE COURT: Okay. Have you been -- did I  
5 ask you if you had ever been the victim of a crime?

6                       PROSPECTIVE JUROR NUMBER THREE: I have  
7 not been.

8                       THE COURT: You have not been. And you  
9 told us about your law enforcement. Do you have any  
10 close friend or relatives who have been charged with a  
11 crime?

12                      PROSPECTIVE JUROR NUMBER THREE: No.

13                      THE COURT: Okay. Do you know of any  
14 reason why you could not be a fair and impartial juror?

15                      PROSPECTIVE JUROR NUMBER THREE: No.

16                      THE COURT: Okay. You heard all the  
17 questions that Mr. Glenn and Miss Lozen have asked of the  
18 jurors. Would any of your answers be different to any of  
19 those questions --

20                      PROSPECTIVE JUROR NUMBER THREE: No.

21                      THE COURT: -- such as this being an old  
22 case and whether or not you think that it's unfair to  
23 bring this case cause it's so old? You recognize, and  
24 this goes to all the jurors, that's not something now to  
25 judge now, do you understand that? And I'm sure you do

1 as a lawyer, is that correct?

2 PROSPECTIVE JUROR NUMBER THREE: Yes.

3 THE COURT: Okay. You also understand  
4 that the People -- if a witness testifies and it's a sole  
5 witness in the case and all the jurors believed that that  
6 witness is credible and believable and you have no  
7 reasonable doubt as to her testimony that can be enough  
8 to convict? Do you understand that?

9 PROSPECTIVE JUROR NUMBER THREE: Yes.

10 THE COURT: Okay. Now, you understand  
11 that if that's not true and some element of the offense  
12 is missing, then it's your duty to acquit? Do you  
13 understand that?

14 PROSPECTIVE JUROR NUMBER THREE: Yes.

15 THE COURT: Okay. I'm talking to all of  
16 the jurors now. Do you understand that? Not just Mr.  
17 McNamara. I'm not picking on him because he's a lawyer.  
18 Do you understand that?

19 (No response)

20 THE COURT: All right. Okay. Do you know  
21 of any reason why you could not be a fair and impartial  
22 juror?

23 PROSPECTIVE JUROR NUMBER THREE: No.

24 THE COURT: Okay. Mr. -- juror number  
25 five -- no, six, I'm sorry.

1 PROSPECTIVE JUROR NUMBER SIX: My name is  
2 Mr. Skluzak.

3 THE COURT: Mr. Skluzak, did you hear all  
4 the questions that have been asked of the previous  
5 jurors?

6 PROSPECTIVE JUROR NUMBER SIX: Yeah.

7 THE COURT: Even though you're wearing  
8 those Michigan colors up there? Go ahead.

9 PROSPECTIVE JUROR NUMBER SIX: I've been  
10 paying attention to what you've been saying.

11 THE COURT: Okay. Would any of your  
12 answers be different to any of those questions?

13 PROSPECTIVE JUROR NUMBER SIX: No.

14 THE COURT: Do you have any close friends  
15 or relatives who have been the victim of a crime?

16 PROSPECTIVE JUROR NUMBER SIX: I have a  
17 neighbor that used to be a Detroit cop, but I haven't  
18 seen 'em -- you know, haven't seen her in twenty years or  
19 so cause I moved out of the city.

20 THE COURT: Okay. So you're not -- well,  
21 you realize that when you knew him you probably discussed  
22 his work with him, is that correct?

23 PROSPECTIVE JUROR NUMBER SIX: Ah, she was  
24 a female.

25 THE COURT: She was a female. You see how

1 sexist I am. I'm sorry about that. But anyway, you  
2 discussed her work with her?

3 PROSPECTIVE JUROR NUMBER SIX: Sometimes.

4 THE COURT: Sometimes? Did you form a  
5 definitive opinions about law enforcement based on that?

6 PROSPECTIVE JUROR NUMBER SIX: No.

7 THE COURT: Okay. What type of work do  
8 you do, sir?

9 PROSPECTIVE JUROR NUMBER SIX: I'm retired  
10 from Ford Motor Company.

11 THE COURT: Okay. Are you married?

12 PROSPECTIVE JUROR NUMBER SIX: No.

13 THE COURT: Okay. Do you have any close  
14 friend or relatives who have been the victim of a crime?

15 PROSPECTIVE JUROR NUMBER SIX: No.

16 THE COURT: What about close relatives or  
17 friends who have been accused of a crime, somebody you  
18 know, was close to them, was accused of a crime?

19 PROSPECTIVE JUROR NUMBER SIX: I believe  
20 my brother was, back forty years ago, was busted for  
21 B & E or something to that effect.

22 THE COURT: Is he still around?

23 PROSPECTIVE JUROR NUMBER SIX: Yeah, he's  
24 still living.

25 THE COURT: Okay. But did you go to court

1 with him when that happened or if you can remember?

2 PROSPECTIVE JUROR NUMBER SIX: I don't  
3 know if I can even remember. I don't think I went to  
4 court with him, no.

5 THE COURT: Okay. This building wasn't  
6 even build then, was it?

7 PROSPECTIVE JUROR NUMBER SIX: Probably  
8 not.

9 THE COURT: No, it wasn't. Other than  
10 that, any problems with law enforcement that you  
11 determined with friend or relatives?

12 PROSPECTIVE JUROR NUMBER SIX: No.

13 THE COURT: Okay. You heard all the  
14 questions Miss Lozen asked about the age of her case and  
15 whether or not you can believe it if there's just one  
16 witness in the case. Are you willing to follow the law  
17 that if the prosecution can convince you that the  
18 witnesses are credible and that she's alone or he's alone  
19 in testifying, that that's enough to convict if you have  
20 no reasonable doubts? Do you understand that?

21 PROSPECTIVE JUROR NUMBER SIX: Yes.

22 THE COURT: It's not the amount of the  
23 evidence, but it's the credibility of the evidence that  
24 determines reasonable doubt. Do you understand that?

25 PROSPECTIVE JUROR NUMBER SIX: Uh-huh.

1 THE COURT: Are you willing to do that?

2 PROSPECTIVE JUROR NUMBER SIX: Yes.

3 THE COURT: Okay. Juror number thirteen,  
4 I think you were the other one, is that correct?

5 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

6 THE COURT: What's your name, ma'am?

7 PROSPECTIVE JUROR NUMBER THIRTEEN: Lauren  
8 Brown.

9 THE COURT: Miss Brown, what type of work  
10 are you involved in, if it's outside the home?

11 PROSPECTIVE JUROR NUMBER THIRTEEN: I work  
12 at a small business. We do heat pressing and  
13 embroidering sweat shirts and stuff.

14 THE COURT: Okay. Are you married?

15 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

16 THE COURT: Okay. Do you have any close  
17 friends or relatives who have been members of a law  
18 enforcement agency?

19 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

20 THE COURT: Do you have any close friends  
21 or relatives who have been victims of a crime?

22 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

23 THE COURT: Do you have any close friends  
24 or relatives who have been charged with a crime?

25 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

1 THE COURT: You've heard all the questions  
2 that counsel for the People and counsel for the Defendant  
3 have asked. Would any of your answers be different to  
4 any of their questions?

5 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

6 THE COURT: Do you have any friends or  
7 relatives who have been victims of a sexual assault?

8 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

9 THE COURT: This goes to all the jurors.  
10 Have you been victims of a sexual assault and it was not  
11 reported to the police, if you know?

12 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

13 THE COURT: What about you, Mr. McNamara?

14 PROSPECTIVE JUROR NUMBER THREE: No, I  
15 don't know anyone.

16 THE COURT: And Mr. Lubasheski (ph)?

17 PROSPECTIVE JUROR NUMBER SIX: Skluzak.

18 THE COURT: Mr. Skluzak. You have to give  
19 a previous guy from southern Alabama pronouncing your  
20 name is kind of hard.

21 PROSPECTIVE JUROR NUMBER SIX: Well, I  
22 understand. A lot of people have problems pronouncing  
23 it.

24 THE COURT: Okay. But you heard the  
25 question Miss Lozen asked about people who didn't report

1 sexual assaults. Do you have any people, friends who  
2 have been in that position, ladies or men?

3 PROSPECTIVE JUROR NUMBER SIX: No.

4 THE COURT: Okay. All right. Is there  
5 anything that has happened to the three of you in the  
6 past with the police department or lack of police that  
7 would cause you any problem in judging the weight of  
8 police officers?

9 PROSPECTIVE JUROR NUMBER SIX: No.

10 THE COURT: Okay. All right. Mr. Glenn,  
11 I think you were the one to challenge, is that correct?  
12 Do you have any peremptory challenges at this point?

13 MR. GLENN: No. No.

14 THE COURT: Do you have any challenges for  
15 cause at this point?

16 MR. GLENN: Pass for cause.

17 THE COURT: My Lozen, any challenges for  
18 cause?

19 MS. LOZEN: Pass for cause.

20 THE COURT: Okay. You can talk to the  
21 jurors if you want to.

22 MR. GLENN: Okay.

23 THE COURT: Make it short. Make it short.

24 MR. GLENN: No questions, Judge.

25 THE COURT: Okay. Back on you, Miss



1 Lozen.

2 MS. LOZEN: Just briefly, Judge.

3 THE COURT: Let's not go over what I went  
4 over.

5 MS. LOZEN: Yes, Judge. This is for Mr.  
6 Skluzak. Do you have an issue with a woman who would  
7 have sex on the first date?

8 PROSPECTIVE JUROR NUMBER SIX: No, but I  
9 had a friend who always said someone who would do someone  
10 on the first date, she'd probably do someone else on the  
11 first date, you know.

12 MS. LOZEN: I understand. And do you  
13 believe or do you think that just because somebody has  
14 sex on the first date that means that they deserved to be  
15 raped later on?

16 PROSPECTIVE JUROR NUMBER SIX: No.

17 MS. LOZEN: Okay. And what about you,  
18 Miss Brown, do you believe that somebody who has sex on  
19 the first date, that means that they deserve to be raped  
20 later on?

21 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

22 MS. LOZEN: No? Okay. And, Mr. McNamara?

23 PROSPECTIVE JUROR NUMBER THREE: No.

24 MS. LOZEN: No. Okay. Nobody has a  
25 problem with this case being nineteen years old? Mr.

1 Skluzak?

2 PROSPECTIVE JUROR NUMBER SIX: As far as I  
3 know there's no statute of limitation on rape.

4 MS. LOZEN: Okay.

5 PROSPECTIVE JUROR NUMBER SIX: I believe  
6 that's still current.

7 MS. LOZEN: So you would still be willing  
8 to listen to all the evidence and still evaluate all the  
9 evidence?

10 PROSPECTIVE JUROR NUMBER SIX: Yeah, but  
11 I've been an afternoon person thirty years of my life so  
12 sometimes I might be a little sleepy on this jury.

13 THE COURT: I'll keep you awake.

14 MS. LOZEN: Mr. McNamara, do you have a  
15 problem with this case being nineteen years old?

16 PROSPECTIVE JUROR NUMBER THREE: No.

17 MS. LOZEN: Okay. And, Miss Brown, do you  
18 have a problem with the fact that the evidence wasn't  
19 tested until recently?

20 THE COURT: Miss Brown, you have to answer  
21 verbally. He has to write down what you say.

22 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

23 MS. LOZEN: Okay. Thank you. Nothing  
24 further.

25 THE COURT: Okay. Peremptory challenges

1 are on you, Miss Lozen.

2 MS. LOZEN: Judge, we'd like to thank and  
3 excuse the juror in seat number one and juror in seat  
4 number six.

5 THE COURT: Okay. Number one and number  
6 six.

7 COURT CLERK: Dooley, D-o-o-l-e-y,  
8 William, seat number one. Bono Sean, B-o-n-o, seat  
9 number six.

10 THE COURT: Okay. Mr. Dooley, what type  
11 of work are you involved in, sir?

12 PROSPECTIVE JUROR NUMBER ONE: Tech.

13 THE COURT: Tech?

14 PROSPECTIVE JUROR NUMBER ONE: Uh-huh.

15 THE COURT: Where do you work?

16 PROSPECTIVE JUROR NUMBER ONE: For Martin  
17 Motors.

18 THE COURT: I'm sorry?

19 PROSPECTIVE JUROR NUMBER ONE: Martin  
20 Motors.

21 THE COURT: Okay. Are you married?

22 PROSPECTIVE JUROR NUMBER ONE: Yes.

23 THE COURT: What type of work -- does your  
24 wife work outside the home?

25 PROSPECTIVE JUROR NUMBER ONE: No.

1 THE COURT: She takes care of the house?

2 PROSPECTIVE JUROR NUMBER ONE: Yes.

3 THE COURT: Okay. Have you, a close  
4 friend or relatives of yours ever been the victim of a  
5 crime?

6 PROSPECTIVE JUROR NUMBER ONE: My mother.

7 THE COURT: What happened to her?

8 PROSPECTIVE JUROR NUMBER ONE: House  
9 broken into.

10 THE COURT: How long ago?

11 PROSPECTIVE JUROR NUMBER ONE: A couple  
12 of years.

13 THE COURT: Was anyone arrested for it?

14 PROSPECTIVE JUROR NUMBER ONE: No.

15 THE COURT: Were the police called?

16 PROSPECTIVE JUROR NUMBER ONE: Yes.

17 THE COURT: Were you satisfied or was your  
18 mother satisfied the way the police handled it?

19 PROSPECTIVE JUROR NUMBER ONE: Yes.

20 THE COURT: You recognize you can't hold  
21 that against the prosecution or the defense in this case?  
22 Do you understand that?

23 PROSPECTIVE JUROR NUMBER ONE: Yes.

24 THE COURT: It's not something that you  
25 can dwell on as you listen to the facts of this case if

1           you're selected. Do you understand that?

2                       PROSPECTIVE JUROR NUMBER ONE:    Yes.

3                       THE COURT: Do you have any close friend  
4 or relatives who have ever been charged with a crime?

5                       PROSPECTIVE JUROR NUMBER ONE:    No.

6                       THE COURT: Do you have any close friends  
7 or relatives who are members of a law enforcement agency?

8                       PROSPECTIVE JUROR NUMBER ONE:    No.

9                       THE COURT: Do you know of any reason why  
10 you could not be a fair and impartial juror?

11                      PROSPECTIVE JUROR NUMBER ONE:    No.

12                      THE COURT: You heard all the questions  
13 that Miss Lozen, the assistant prosecutor, and Mr. Glenn,  
14 as a defense counsel asked of the jurors. Would any of  
15 your answers be different than any of those questions?

16                      PROSPECTIVE JUROR NUMBER ONE:    No.

17                      THE COURT: Do you have any problem with  
18 the age of this case in terms of DNA testing and all of  
19 that stuff?

20                      PROSPECTIVE JUROR NUMBER ONE:    No.

21                      THE COURT: You heard me explain to the  
22 jury about the possibility of one witness can be credible  
23 enough to convict because it's not the number of  
24 witnesses that's presented. It's the credibility of the  
25 witnesses that you will make determinations of the truth

1 and veracity. Do you understand that and can you do  
2 that?

3 PROSPECTIVE JUROR NUMBER ONE: Yes.

4 THE COURT: Okay. Mr. -- what's your name  
5 back there?

6 PROSPECTIVE JUROR NUMBER SIX: Sean bono.

7 THE COURT: Mr. Bono, are you employed?  
8 What type of work are you involved in?

9 PROSPECTIVE JUROR NUMBER SIX: I'm a  
10 jeweler.

11 THE COURT: Jeweler? Okay. Is your wife  
12 employed outside the home?

13 PROSPECTIVE JUROR NUMBER SIX: Yes.

14 THE COURT: Okay. What type of work does  
15 she do?

16 PROSPECTIVE JUROR NUMBER SIX: She works  
17 for the Township, Plymouth Township.

18 THE COURT: Okay. Okay. Not in law  
19 enforcement?

20 PROSPECTIVE JUROR NUMBER SIX: No, no, she  
21 works in the Treasury's Department.

22 THE COURT: Okay. Collecting money, huh?

23 PROSPECTIVE JUROR NUMBER SIX: Yeah.

24 THE COURT: Okay. Do you have any close  
25 friends or relatives that are members of a law

1 enforcement agency?

2 PROSPECTIVE JUROR NUMBER SIX: No.

3 THE COURT: What about being the victim of  
4 a crime? Do you have any close friends or relatives who  
5 have been placed in that position?

6 PROSPECTIVE JUROR NUMBER SIX: No.

7 THE COURT: Do you know of any reason why  
8 you could not be a fair and impartial juror?

9 PROSPECTIVE JUROR NUMBER SIX: I don't see  
10 any.

11 THE COURT: Okay. You heard the questions  
12 that have been asked by the assistant prosecutor and the  
13 defense about this case. Do you have any problem with  
14 that?

15 PROSPECTIVE JUROR NUMBER SIX: None.

16 THE COURT: Do you have any problem with  
17 the fact that this is a sexual assault case? It doesn't  
18 arouse you, anger enough that you would maybe be able to  
19 be a deliberative juror, is that correct?

20 PROSPECTIVE JUROR NUMBER SIX: I don't see  
21 why not.

22 THE COURT: All right. It's back on you,  
23 Miss Lozen. I think it's was on you, wasn't it? Yeah.

24 MS. LOZEN: Yes, just for voir dire,  
25 Judge. Mr. Baker, I didn't get a chance to ask you. You

1 indicated that someone tried to break in your home?  
2 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
3 MS. LOZEN: And you indicated that you  
4 said you were treated fairly by the police?  
5 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
6 MS. LOZEN: Okay. And you also said your  
7 oldest brother is currently incarcerated?  
8 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
9 MS. LOZEN: Okay. Was he treated fairly  
10 by the police?  
11 PROSPECTIVE JUROR NUMBER FOURTEEN: Yes.  
12 MS. LOZEN: Okay. And you didn't have any  
13 issue with the way his case was presented or how it went  
14 through the criminal justice system?  
15 PROSPECTIVE JUROR NUMBER FOURTEEN: No.  
16 MS. LOZEN: Okay. Now, Mr. Dooley, do you  
17 have a problem with the fact that -- do you have any  
18 issue or opinion on if somebody has sex on the first  
19 date?  
20 PROSPECTIVE JUROR NUMBER ONE: No.  
21 MS. LOZEN: Okay. And then later on if  
22 they're subsequently raped do they deserve to be raped?  
23 PROSPECTIVE JUROR NUMBER ONE: No.  
24 THE COURT: Okay. And what about you, Mr.  
25 Bono?



1 PROSPECTIVE JUROR NUMBER SIX: Same thing.

2 I have no problem.

3 MS. LOZEN: Okay. Any issue with the fact  
4 that this case is from 1996?

5 PROSPECTIVE JUROR NUMBER SIX: No.

6 MS. LOZEN: No? And Mr. -- I'm sorry.  
7 Mr. Dooley, any issue with the fact that this case is  
8 from '96?

9 PROSPECTIVE JUROR NUMBER ONE: No.

10 MS. LOZEN: No? Okay. Anyone you know  
11 that's been accused of a sexual assault or been the  
12 victim of a sexual assault even if it wasn't reported to  
13 the police?

14 PROSPECTIVE JUROR NUMBER ONE: No.

15 MS. LOZEN: No? Okay. And same thing for  
16 you, Mr. Bono?

17 PROSPECTIVE JUROR NUMBER SIX: I don't  
18 know of anybody.

19 MS. LOZEN: Okay. Nothing further, Judge.

20 THE COURT: Mr. Glenn?

21 MR. GLENN: No questions. Thank you.

22 THE COURT: All right. Peremptory  
23 challenges, there being no challenges for cause.

24 MR. GLENN: Pass for cause and I'd like  
25 the Court to thank and excuse the juror seated in seat

1           number three and four.

2                       THE COURT: Three and four?

3                       MR. GLENN: Yes, your Honor.

4                       THE COURT: Okay. Do you have anymore,  
5 because she was up there all the time. Do you have  
6 anymore that you're going to excuse? Because we need to  
7 do this like they do in the federal system. You may step  
8 down, Mr. McNamara and ma'am.

9                       MR. GLENN: And number nine.

10                      THE COURT: And number nine. Okay.

11                      COURT CLERK: Wilkins, W-i-l-k-i-n-s, seat  
12 number three. Johnson, J-o-h-n-s-o-n, Barbara, seat  
13 number four. Lencioni, L-e-n-c-i-o-n-i, Paul, seat  
14 number nine.

15                      THE COURT: Juror number four, what's your  
16 name, ma'am?

17                      PROSPECTIVE JUROR NUMBER FOUR: Barb  
18 Johnson.

19                      THE COURT: Miss Johnson, have you heard  
20 all the questions that have been asked of the jurors?

21                      PROSPECTIVE JUROR NUMBER FOUR: Yes, I  
22 have.

23                      THE COURT: Would any of your answers be  
24 different?

25                      PROSPECTIVE JUROR NUMBER FOUR: No.

1 THE COURT: Do you have any close friends  
2 or relatives, members of a law enforcement agency?

3 PROSPECTIVE JUROR NUMBER FOUR: No.

4 THE COURT: Have you, a close friend or  
5 relative of yours ever been the victim of a crime?

6 PROSPECTIVE JUROR NUMBER FOUR: No.

7 THE COURT: Have you -- do you have any  
8 close friend or relatives who have been accused of a  
9 crime?

10 PROSPECTIVE JUROR NUMBER FOUR: No.

11 THE COURT: Okay. I have not asked all of  
12 the jurors this so let me ask this question at this point  
13 since no one asked it. Has anyone ever served on a jury  
14 before?

15 (Hands raised)

16 THE COURT: Okay. I forgot. Okay. Let's  
17 start with you, Mr. --

18 PROSPECTIVE JUROR NUMBER FIVE:  
19 Andrzyczak.

20 THE COURT: -- Mr. Andrzyczak, how long  
21 ago and what type of case was it?

22 PROSPECTIVE JUROR NUMBER FIVE: It was  
23 probably about ten years ago and it was a traffic  
24 accident.

25 THE COURT: Traffic accident. So it was a

1 civil case? They were suing?

2 PROSPECTIVE JUROR NUMBER FIVE: Yes.

3 THE COURT: Okay. Was there anything  
4 about that experience which would cause you any problem  
5 hearing this case?

6 PROSPECTIVE JUROR NUMBER FIVE: No, sir.

7 THE COURT: Okay. Who was the next one?

8 (Hands raised)

9 THE COURT: Okay. Mr. Mems, what type of  
10 case was it?

11 PROSPECTIVE JUROR NUMBER SEVEN: It was --  
12 it was sort of a domestic case.

13 THE COURT: Was it here?

14 PROSPECTIVE JUROR NUMBER SEVEN: No, it  
15 was Flint.

16 THE COURT: Well, when I say was it here,  
17 was it -- were two people -- were the police involved in  
18 it in terms of somebody was accused of a crime or was it  
19 a divorce?

20 PROSPECTIVE JUROR NUMBER SEVEN: No, it  
21 wasn't a divorce. It was a crime pertaining to a young  
22 man and he was very misused by his family.

23 THE COURT: Okay. So it was a criminal  
24 case.

25 PROSPECTIVE JUROR NUMBER SEVEN: Okay.

1 THE COURT: Okay. When you say a young  
2 man, was it a small kid? Cause it could have been a  
3 juvenile case.

4 PROSPECTIVE JUROR NUMBER SEVEN: He was --  
5 at that time he was about, I'd say, twelve or ten years  
6 old.

7 THE COURT: So they were accused of --  
8 cause I was trying to see whether they were taking away  
9 the parental rights or something like that. Were you  
10 deciding guilt or innocence or parental --

11 PROSPECTIVE JUROR NUMBER SEVEN: Yeah, it  
12 was an innocent or guilty case --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER SEVEN: -- but  
15 they threw it out cause --

16 THE COURT: So you all didn't reach a  
17 verdict?

18 PROSPECTIVE JUROR NUMBER SEVEN: No.

19 THE COURT: Okay. Was there anything  
20 about that experience?

21 PROSPECTIVE JUROR NUMBER SEVEN: No.

22 THE COURT: Okay. All right. Mr. --

23 PROSPECTIVE JUROR NUMBER ELEVEN: Kelly.

24 THE COURT: Yes.

25 PROSPECTIVE JUROR NUMBER ELEVEN: Drugs.

1 THE COURT: What?

2 PROSPECTIVE JUROR NUMBER ELEVEN: It was  
3 drugs, the case.

4 THE COURT: So it was a criminal case?

5 PROSPECTIVE JUROR NUMBER ELEVEN: Right.

6 THE COURT: Was it in this building?

7 PROSPECTIVE JUROR NUMBER ELEVEN: It was  
8 in this building, yes.

9 THE COURT: Don't tell me what the verdict  
10 was, but did you reach a verdict?

11 PROSPECTIVE JUROR NUMBER ELEVEN: Yes, we  
12 did.

13 THE COURT: So you deliberated, is that  
14 right?

15 PROSPECTIVE JUROR NUMBER ELEVEN: Yes.

16 THE COURT: Was there anything about that  
17 experience which you think would cause you a problem in  
18 hearing this case about your jury duty?

19 PROSPECTIVE JUROR NUMBER ELEVEN: No.

20 THE COURT: Ma'am, I think you were next,  
21 is that correct?

22 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

23 THE COURT: What type of case was it?

24 PROSPECTIVE JUROR NUMBER TWELVE: It was a  
25 gun charge.

1 THE COURT: And was it in this building?

2 PROSPECTIVE JUROR NUMBER TWELVE: It was.

3 THE COURT: Okay. And did you reach a  
4 verdict? Don't tell me what the verdict was.

5 PROSPECTIVE JUROR NUMBER TWELVE: Yes.

6 THE COURT: Okay. Anything about that  
7 experience which would cause you to have a problem in  
8 hearing this case?

9 PROSPECTIVE JUROR NUMBER TWELVE: No.

10 THE COURT: Anybody else?

11 (No response)

12 THE COURT: Okay. Now, we get back to --  
13 I lost track of where I was. We have a question. You  
14 have --

15 PROSPECTIVE JUROR NUMBER THREE: No.

16 THE COURT: Number three?

17 PROSPECTIVE JUROR NUMBER THREE: No.

18 THE COURT: What's your name, ma'am?

19 PROSPECTIVE JUROR NUMBER THREE: Annie  
20 Wilkins-Webster.

21 THE COURT: How do you pronounce your last  
22 name?

23 PROSPECTIVE JUROR NUMBER THREE: Webster.

24 THE COURT: Webster. Miss Webster, do you  
25 have any close friend or relatives who are members of a

1 law enforcement agency?

2 PROSPECTIVE JUROR NUMBER THREE: No.

3 THE COURT: Are you employed outside the  
4 home?

5 PROSPECTIVE JUROR NUMBER THREE: Yes, I  
6 am.

7 THE COURT: What type of work?

8 PROSPECTIVE JUROR NUMBER THREE: United  
9 States Postal Service.

10 THE COURT: Okay. Anything happen  
11 delivering the mail or sorting the mail that would cause  
12 you a problem hearing this case?

13 PROSPECTIVE JUROR NUMBER THREE: No, not  
14 this case.

15 THE COURT: Do you deliver?

16 PROSPECTIVE JUROR NUMBER THREE: No, I  
17 don't.

18 THE COURT: Do you work in the office?

19 PROSPECTIVE JUROR NUMBER THREE: I work  
20 inside.

21 THE COURT: Okay. Do you have any close  
22 friend or relatives who have been charged with a crime?

23 PROSPECTIVE JUROR NUMBER THREE: No.

24 THE COURT: Do you know of any reason why  
25 you could not be a fair and impartial juror?



1 PROSPECTIVE JUROR NUMBER THREE: No.

2 THE COURT: Is there anything about the  
3 fact that this is a criminal sexual assault case that  
4 would cause you a problem in hearing it?

5 PROSPECTIVE JUROR NUMBER THREE: No.

6 THE COURT: You heard Mrs. Lozen, the  
7 assistant prosecutor, talk about the fact that this case  
8 is probably about nineteen or twenty years old and the  
9 DNA was tested long after the alleged incident. Would  
10 that cause you any problem in giving credibility of the  
11 witnesses in this case?

12 PROSPECTIVE JUROR NUMBER THREE: No.

13 THE COURT: You would judge this case  
14 solely on the basis of the law as I give it to you, is  
15 that correct?

16 PROSPECTIVE JUROR NUMBER THREE: Correct.

17 THE COURT: What about you, Mrs. Johnson,  
18 are you willing to do that?

19 PROSPECTIVE JUROR NUMBER FOUR: Yes.

20 THE COURT: Okay. You recognize that I  
21 will ultimately be the one who will tell you what the law  
22 is. Do you understand that?

23 PROSPECTIVE JUROR NUMBER THREE: Yes.

24 THE COURT: Okay. Was anyone else just  
25 seated?

1 (Hand raised)

2 THE COURT: You were, sir. Yes, sir.

3 What's your name?

4 PROSPECTIVE JUROR NUMBER NINE: Paul

5 Lencioni.

6 THE COURT: Mr. Lencioni, what type of  
7 work are you involved in outside the home?

8 PROSPECTIVE JUROR NUMBER NINE: Well, I  
9 handle Michigan no-fault auto claims for most of the auto  
10 insurances.

11 THE COURT: Are you a lawyer?

12 PROSPECTIVE JUROR NUMBER NINE: No, claims  
13 analyst.

14 THE COURT: For the state?

15 PROSPECTIVE JUROR NUMBER NINE: No,  
16 Michigan Auto and Bureau Insurance Placement Facility.

17 THE COURT: That's not where you don't  
18 have coverage -- oh, that's where you don't have  
19 coverage.

20 PROSPECTIVE JUROR NUMBER NINE: Right.

21 THE COURT: Okay. You deal with a bunch  
22 of lawyers, don't you?

23 PROSPECTIVE JUROR NUMBER NINE: Every day.

24 THE COURT: Every day. Have they soured  
25 you so bad on our profession that you don't want to be

1           bothered with us?

2                       PROSPECTIVE JUROR NUMBER NINE:   No.

3                       THE COURT:   No?   Is your wife employed  
4           outside the home?

5                       PROSPECTIVE JUROR NUMBER NINE:   Yes.

6                       THE COURT:   And what type of work does she  
7           do?

8                       PROSPECTIVE JUROR NUMBER NINE:   She's an  
9           administrative assistant at a marketing company.

10                      THE COURT:   Okay.   Okay.   Have you, a  
11           close friend or relative of yours ever been the victim of  
12           a crime?

13                      PROSPECTIVE JUROR NUMBER NINE:   No.

14                      THE COURT:   Do you have any close friend  
15           or relatives who have been charged with a crime?

16                      PROSPECTIVE JUROR NUMBER NINE:   No.

17                      THE COURT:   And do you have any close  
18           friend or relatives who are members of a law enforcement  
19           agency?

20                      PROSPECTIVE JUROR NUMBER NINE:   My brother  
21           is a police detective.

22                      THE COURT:   Where?

23                      PROSPECTIVE JUROR NUMBER NINE:   Ann Arbor.

24                      THE COURT:   Ann Arbor?   Okay.   And do you  
25           ever discuss your work with him in detail?

1 PROSPECTIVE JUROR NUMBER NINE: Yes.

2 THE COURT: Okay. Have you formed any  
3 opinions about law enforcement and his profession that  
4 would cause you a problem in judging the testimony of a  
5 police officer?

6 PROSPECTIVE JUROR NUMBER NINE: No.

7 THE COURT: You could judge their  
8 testimony as the law says you should?

9 PROSPECTIVE JUROR NUMBER NINE: Yes.

10 THE COURT: Okay. Let me ask anyone who  
11 has a friend or relative who is a police officer. If you  
12 were deliberating -- if you were selected and you were  
13 deliberating in the jury room and you had reached a  
14 verdict that was adverse to the People -- and I'm not  
15 saying what your verdict would be, but you are going to  
16 have a beer with your brother as you get off this evening  
17 and you had to go back to him and say, look, we heard  
18 this case and, you know, it was a rough case, but we  
19 ultimately ended up finding the Defendant not guilty, and  
20 your brother would criticize you for it, could you  
21 withstand that and say, I did what I was suppose to do?

22 PROSPECTIVE JUROR NUMBER NINE: Yes.

23 THE COURT: Any others that couldn't do  
24 that?

25 (No response)

1 THE COURT: Okay. All right. Did you all  
2 hear all the questions that Miss Lozen and Mr. Glenn had  
3 asked of the jurors?

4 PROSPECTIVE JURORS: Yes.

5 THE COURT: Do any of you have any  
6 problems with the age of her case or the fact that it's a  
7 sexual assault case?

8 PROSPECTIVE JURORS: No.

9 THE COURT: Okay. Anybody else who was  
10 recently seated? Miss Johnson and Miss Webster?

11 PROSPECTIVE JUROR NUMBER THREE: No.

12 PROSPECTIVE JUROR NUMBER FOUR: No  
13 problem.

14 THE COURT: Okay. All right. Mr. Glenn,  
15 you were the one with the challenge, weren't you?

16 MR. GLENN: Yes.

17 THE COURT: Do you have any questions?

18 MR. GLENN: No, your Honor.

19 THE COURT: Okay. Miss Lozen, do you have  
20 anymore questions?

21 MS. LOZEN: No, Judge.

22 THE COURT: Okay. The peremptory  
23 challenges are on you, Miss Lozen.

24 MS. LOZEN: We'd like to thank and excuse  
25 the juror in seat number eight.

1 THE COURT: Okay. No, no, you're number  
2 nine, sir. You're number nine. Don't feel bad. I have  
3 a problem counting, too. I always said I would have been  
4 a doctor if my math would have been better.

5 COURT CLERK: Seals, S-e-a-l-s, Donavon,  
6 seat number eight.

7 THE COURT: Mr. Seals, have you heard all  
8 the questions that have been asked of the previous  
9 jurors?

10 PROSPECTIVE JUROR NUMBER EIGHT: Yes,  
11 sir.

12 THE COURT: Huh?

13 PROSPECTIVE JUROR NUMBER EIGHT: Yes,  
14 sir.

15 THE COURT: Okay. What type of work are  
16 you involved in?

17 PROSPECTIVE JUROR NUMBER EIGHT: I work  
18 at Krogers.

19 THE COURT: Krogers? Which one?

20 PROSPECTIVE JUROR NUMBER EIGHT: In  
21 Livonia.

22 THE COURT: Okay. Are you married?

23 PROSPECTIVE JUROR NUMBER EIGHT: No, sir.

24 THE COURT: All right. Do you have any  
25 close friends or relatives who have been members of a law

1 enforcement agency?

2 PROSPECTIVE JUROR NUMBER EIGHT: No.

3 THE COURT: Have you, a close friend or  
4 relatives of yours ever been charged with a crime?

5 PROSPECTIVE JUROR NUMBER EIGHT: My dad.

6 THE COURT: How long ago was that?

7 PROSPECTIVE JUROR NUMBER EIGHT: Five  
8 years ago --

9 THE COURT: What happened?

10 PROSPECTIVE JUROR NUMBER EIGHT: No, ten  
11 years ago.

12 THE COURT: What happened?

13 PROSPECTIVE JUROR NUMBER EIGHT: Drinking  
14 and driving.

15 THE COURT: Drinking and driving?

16 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

17 THE COURT: Well, that's a civil crime.  
18 Was that his first time?

19 PROSPECTIVE JUROR NUMBER EIGHT: No.

20 THE COURT: Oh, so he's been charged a  
21 couple of times?

22 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

23 THE COURT: Did you go to court with him  
24 when this happened?

25 PROSPECTIVE JUROR NUMBER EIGHT: No.

1 THE COURT: Did you know what happened?  
2 PROSPECTIVE JUROR NUMBER EIGHT: They let  
3 him go.  
4 THE COURT: No, no, in terms of the court  
5 proceedings. Did his license get -- did he end up in  
6 jail or --  
7 PROSPECTIVE JUROR NUMBER EIGHT: He did a  
8 year.  
9 THE COURT: He did a year in the County  
10 Jail?  
11 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.  
12 THE COURT: Is he out now?  
13 PROSPECTIVE JUROR NUMBER EIGHT: Yeah, he  
14 out.  
15 THE COURT: Do you have a relationship  
16 with your father?  
17 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.  
18 THE COURT: Is there anything about how he  
19 was dealt with by the police or the prosecutor or the  
20 defense lawyer that causes you a problem hearing this  
21 case?  
22 PROSPECTIVE JUROR NUMBER EIGHT: No.  
23 THE COURT: Are you married?  
24 PROSPECTIVE JUROR NUMBER EIGHT: No.  
25 THE COURT: Oh, I asked you that question.



1 Any other situations where someone you know or a relative  
2 has been involved in the criminal justice system?

3 PROSPECTIVE JUROR NUMBER EIGHT: No.

4 THE COURT: That's it?

5 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

6 THE COURT: Okay. Do you have any close  
7 friend or relatives who are members of a police agency?

8 PROSPECTIVE JUROR NUMBER EIGHT: No.

9 THE COURT: Okay. Did you hear all the  
10 questions that have been asked of the jurors by Miss  
11 Lozen or Mr. Glenn in terms of the age of this case, the  
12 testimony that's going to be heard?

13 PROSPECTIVE JUROR NUMBER EIGHT: Yeah.

14 THE COURT: Do you have any problems with  
15 that?

16 PROSPECTIVE JUROR NUMBER EIGHT: No, sir.

17 THE COURT: Can you decide this case  
18 solely on the basis of the testimony that comes from the  
19 witness stand?

20 PROSPECTIVE JUROR NUMBER EIGHT: Yes,  
21 sir.

22 THE COURT: Do you understand as I've  
23 explained to other jurors that you're not here to satisfy  
24 anyone. Do you understand that?

25 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

1 THE COURT: Can you do that?

2 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

3 THE COURT: Okay. Miss Lozen, it's on  
4 you.

5 MS. LOZEN: I did want to ask, Mr.  
6 Murillo, you indicated you're starting a job soon?

7 PROSPECTIVE JUROR NUMBER TEN: Yes.

8 MS. LOZEN: Okay. And is that going to  
9 impact your ability to pay attention during this trial?

10 PROSPECTIVE JUROR NUMBER TEN: No.

11 MS. LOZEN: Even if it lasts, say, up to  
12 three days or so?

13 PROSPECTIVE JUROR NUMBER TEN: No, I  
14 should be okay.

15 MS. LOZEN: Okay. So you'll still pay  
16 attention and you won't be mad about us holding you here?

17 PROSPECTIVE JUROR NUMBER TEN: No.

18 MS. LOZEN: Okay. And, Mr. Seals, do you  
19 know anyone who has either been accused of a crime  
20 involving criminal sexual conduct?

21 PROSPECTIVE JUROR NUMBER EIGHT: No.

22 MS. LOZEN: Okay. And do you know anyone  
23 who's been the victim of criminal sexual conduct even if  
24 it wasn't reported to the police?

25 PROSPECTIVE JUROR NUMBER EIGHT: No.

1 MS. LOZEN: No? And can you tell me, do  
2 you have an issue with the fact that this case is perhaps  
3 nineteen years old?

4 PROSPECTIVE JUROR NUMBER EIGHT: No.

5 MS. LOZEN: Okay. Or that the evidence  
6 wasn't tested until recently?

7 PROSPECTIVE JUROR NUMBER EIGHT: No.

8 MS. LOZEN: No? And can you tell me, do  
9 you have an issue with two people having sex on the first  
10 date? Do you think that's not proper or anything?

11 PROSPECTIVE JUROR NUMBER EIGHT: No.

12 MS. LOZEN: Okay. And can you tell me if  
13 you think the woman deserves to be raped later on or if  
14 she was raped later on that she deserved it?

15 PROSPECTIVE JUROR NUMBER EIGHT: No.

16 MS. LOZEN: Okay. Nothing further, Judge.

17 THE COURT: All right. On you, Mr. Glenn.

18 MR. GLENN: No questions, Judge. Thank  
19 you.

20 THE COURT: Okay. Peremptory challenges  
21 are back on you.

22 MR. GLENN: Ask the Court to thank and  
23 excuse the juror seated in seat number nine.

24 THE COURT: Mr. Lencioni, you've been  
25 excused. Yeah, you can come this way, sir. Thank you.

1 PROSPECTIVE JUROR NUMBER NINE: Thank you.

2 THE COURT: You can go back downstairs.

3 COURT CLERK: Arrington,

4 A-r-r-i-n-g-t-o-n, Talise, seat number nine.

5 THE COURT: Is it Arrington or Arrington?

6 PROSPECTIVE JUROR NUMBER NINE: Arrington.

7 THE COURT: I know cause I know a doctor  
8 by that name. Okay. What type of work are you involved  
9 in, ma'am?

10 PROSPECTIVE JUROR NUMBER NINE: I'm a  
11 student. I haven't started work yet.

12 THE COURT: Where are you a student at?

13 PROSPECTIVE JUROR NUMBER NINE: Michigan  
14 State University.

15 THE COURT: Oh, good. What type -- what  
16 are you studying?

17 PROSPECTIVE JUROR NUMBER NINE:  
18 Communications of communicative science and disorders.

19 THE COURT: You're not married?

20 PROSPECTIVE JUROR NUMBER NINE: No.

21 THE COURT: Okay. Have you, a close  
22 friend or relative of yours ever been the victim of a  
23 crime?

24 PROSPECTIVE JUROR NUMBER NINE: No.

25 THE COURT: Do you have any friends in law

1 enforcement?

2 PROSPECTIVE JUROR NUMBER NINE: No.

3 THE COURT: Close friend or relatives in  
4 law enforcement?

5 PROSPECTIVE JUROR NUMBER NINE: No.

6 THE COURT: You heard the nature of this  
7 case being a criminal sexual assault. Do you have any  
8 problem with that?

9 PROSPECTIVE JUROR NUMBER NINE: No.

10 THE COURT: You could decide this case  
11 based on the testimony you heard from the witness stand?

12 PROSPECTIVE JUROR NUMBER NINE: Yes.

13 THE COURT: Okay. Do you know of any  
14 reason why you could not be a fair and impartial juror?

15 PROSPECTIVE JUROR NUMBER NINE: No.

16 THE COURT: Is school out from Michigan  
17 State for the summer?

18 PROSPECTIVE JUROR NUMBER NINE: Uh-huh.

19 THE COURT: Oh, that's right, cause you  
20 all are on a three term system up there?

21 PROSPECTIVE JUROR NUMBER NINE: Yeah.

22 THE COURT: Shows you how long it was when  
23 I was up there. When I was up there you had exams three  
24 times a year. Do you have that no more?

25 PROSPECTIVE JUROR NUMBER NINE: No.

1 THE COURT: Just twice a year?

2 PROSPECTIVE JUROR NUMBER NINE: Yeah.

3 THE COURT: Yeah, we had three times a  
4 year. So you're not being kept away from school from  
5 being down here, is that correct?

6 PROSPECTIVE JUROR NUMBER NINE: My classes  
7 are online.

8 THE COURT: Oh, is that right? Oh, see  
9 you're really moving me out now. So you're not even up  
10 in East Lansing?

11 PROSPECTIVE JUROR NUMBER NINE: No.

12 THE COURT: Oh, okay. Do you know of any  
13 reason why you could not be a fair and impartial juror?

14 PROSPECTIVE JUROR NUMBER NINE: No.

15 THE COURT: Okay. You heard the questions  
16 that Miss Lozen and Mr. Glenn, the defense counsel and,  
17 Miss Lozen, the assistant prosecutor, asked of the  
18 jurors. Would you have any problems with any of the  
19 things that they have asked of the jurors?

20 Would your answers be any different from  
21 the other jurors who are seated up there? Like she's  
22 talked about the fact that the case is twenty years  
23 old -- or the incident allegedly occurred about twenty  
24 years ago and now they're just bringing the case because  
25 of the DNA testing. Do you understand that?

1 PROSPECTIVE JUROR NUMBER NINE: Yes.  
2 THE COURT: Can you deal with that?  
3 PROSPECTIVE JUROR NUMBER NINE: Yes.  
4 THE COURT: You don't have a problem with  
5 that?  
6 PROSPECTIVE JUROR NUMBER NINE: No.  
7 THE COURT: Okay. What about the fact  
8 that she's asked the question about someone who goes on a  
9 date and has sex on the first date? Does that give  
10 someone a license to rape them at a later time?  
11 PROSPECTIVE JUROR NUMBER NINE: No.  
12 THE COURT: You don't think so? I don't  
13 think either. Who was the other one? Was there anybody  
14 else up there?  
15 (No response)  
16 THE COURT: Okay. Back on you, Mr. Glenn.  
17 Do you have any questions?  
18 MR. GLENN: No questions, your Honor.  
19 THE COURT: Back on you, Miss Lozen.  
20 MS. LOZEN: No questions, Judge.  
21 THE COURT: Okay. Peremptory challenges  
22 are on you, Miss Lozen.  
23 MS. LOZEN: To me, Judge?  
24 THE COURT: Yeah.  
25 MS. LOZEN: We'd like to thank and excuse

1 the juror in seat number eight and number nine.

2 THE COURT: Okay. Number eight and number  
3 nine, thank you. You may step down.

4 COURT CLERK: Holian Maria, H-o-l-i-a-n,  
5 seat number eight. Hicky, Dana, H-i-c-k-y, seat number  
6 nine.

7 THE COURT: Okay. Who was first? Ma'am,  
8 number eight, what's your name?

9 PROSPECTIVE JUROR NUMBER EIGHT: Maria  
10 Holian.

11 THE COURT: Miss Holian, are you employed  
12 outside the home?

13 PROSPECTIVE JUROR NUMBER EIGHT: I am  
14 self-employed. I teach piano.

15 THE COURT: Okay. Are you married?

16 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

17 THE COURT: Your husband's employment?

18 PROSPECTIVE JUROR NUMBER EIGHT: Yes,  
19 he's like an electrical designer.

20 THE COURT: Okay. Do you have any close  
21 friend or relatives who have ever been the victim of a  
22 crime?

23 PROSPECTIVE JUROR NUMBER EIGHT: Oh, I  
24 have been.

25 THE COURT: What happened to you?



1 PROSPECTIVE JUROR NUMBER EIGHT: Um,  
2 well, twice I was -- you could call it I was assaulted or  
3 mugged and the first situation I was eight and a friend  
4 of the family, he was drunk and I just pushed him out of  
5 the house.

6 THE COURT: Okay. So this was a sexual  
7 assault, is that correct?

8 PROSPECTIVE JUROR NUMBER EIGHT: Well,  
9 later on -- he didn't get that far.

10 THE COURT: But he would -- it was an  
11 attempt of sexual assault?

12 PROSPECTIVE JUROR NUMBER EIGHT: I think  
13 so.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER EIGHT: And then  
16 the second time I was working in Detroit with teenagers  
17 and they broke the key to the bus and I had to go make a  
18 phone call and I was jumped on my way.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NUMBER EIGHT: And  
21 again I fought back.

22 THE COURT: Good for you.

23 PROSPECTIVE JUROR NUMBER EIGHT: And I  
24 just screamed, Jesus, son of God, save me, and he kept --  
25 he -- I just got louder and louder and he finally let go

1 and he ran and then I reported this, but because it was  
2 no sex involved it was finished. So I thought, okay.

3 THE COURT: Well, were you satisfied with  
4 the way the police handled it?

5 PROSPECTIVE JUROR NUMBER EIGHT: They  
6 followed the law.

7 THE COURT: Can you put that out of your  
8 mind and be a fair and impartial juror?

9 PROSPECTIVE JUROR NUMBER EIGHT: I think  
10 I can.

11 THE COURT: Well, you got to do more than  
12 think.

13 PROSPECTIVE JUROR NUMBER EIGHT: I would,  
14 yeah.

15 THE COURT: If you can't, just tell me.

16 PROSPECTIVE JUROR NUMBER EIGHT: You  
17 know, there's another question that's constantly being  
18 asked and you're expected to say that do I have a problem  
19 with somebody having sex on the first date. I do.

20 THE COURT: You do. And you think that  
21 might impugn your --

22 PROSPECTIVE JUROR NUMBER EIGHT: But I  
23 don't think they should be --

24 THE COURT: Raped?

25 PROSPECTIVE JUROR NUMBER EIGHT: -- raped

1 the second time.

2 THE COURT: I agree with you, but I think  
3 based on the fact that you -- that's going to come up I  
4 think I should excuse you if Miss Lozen and Mr. Glenn  
5 have no objection.

6 MS. LOZEN: No objection.

7 MR. GLENN: No objection.

8 THE COURT: Okay. Thank you. You may  
9 step down. Thank you, Miss Johnson (ph).

10 PROSPECTIVE JUROR NUMBER EIGHT: Okay.

11 THE COURT: You may report back to the  
12 first floor.

13 MS. LOZEN: What's her name, Judge?

14 THE COURT: I think it's Johnson.

15 COURT CLERK: Holian.

16 PROSPECTIVE JUROR NUMBER FOUR: I'm  
17 Johnson.

18 THE COURT: You're Johnson? It's getting  
19 to be a long morning.

20 COURT CLERK: Last name is N-e-h-i-l-a,  
21 first name is John, seat number eight.

22 THE COURT: Okay. Let me go to you first.  
23 You're number nine. Are you employed outside the home?

24 PROSPECTIVE JUROR NUMBER NINE: I am.

25 THE COURT: What type of work do you do?

1 PROSPECTIVE JUROR NUMBER NINE: A customer  
2 service for a rental car agency.

3 THE COURT: Real estate agency?

4 PROSPECTIVE JUROR NUMBER NINE: Rental  
5 car.

6 THE COURT: Rental car, okay. And are you  
7 married?

8 PROSPECTIVE JUROR NUMBER NINE: Single.

9 THE COURT: Single. Okay. Have you, a  
10 close friend or relatives of yours ever been the victim  
11 of a crime?

12 PROSPECTIVE JUROR NUMBER NINE: No.

13 THE COURT: Members or close friends or  
14 relatives that are members of a law enforcement agency?

15 PROSPECTIVE JUROR NUMBER NINE: No.

16 THE COURT: Do you have any close friends  
17 or relatives who have been accused of a crime?

18 PROSPECTIVE JUROR NUMBER NINE: Yes.

19 THE COURT: What happened?

20 PROSPECTIVE JUROR NUMBER NINE: It was a  
21 drug charge.

22 THE COURT: Against someone in the family?

23 PROSPECTIVE JUROR NUMBER NINE: No. Well,  
24 a cousin, yes.

25 THE COURT: Did you get involved with the

1 prosecution of it?

2 PROSPECTIVE JUROR NUMBER NINE: No, I  
3 didn't.

4 THE COURT: You just knew that he was  
5 charged?

6 PROSPECTIVE JUROR NUMBER NINE: Yes.

7 THE COURT: Anything about that incident  
8 that would color your judgment as to the police or to the  
9 Defendant?

10 PROSPECTIVE JUROR NUMBER NINE: No.

11 THE COURT: You heard Miss Lozen and Mr.  
12 Glenn ask certain questions about the age of this case  
13 and the credibility of the witnesses and all that stuff.  
14 Do you have any problems with that?

15 PROSPECTIVE JUROR NUMBER NINE: I do not.

16 THE COURT: You could judge this case  
17 solely on the basis of the testimony that comes from the  
18 witness stand?

19 PROSPECTIVE JUROR NUMBER NINE: Yes, sir.

20 THE COURT: You recognize that the  
21 prosecution has a right to bring this case and that you  
22 can't make a decision based on the age of the case. Do  
23 you understand that?

24 PROSPECTIVE JUROR NUMBER NINE: Yes.

25 THE COURT: Okay. None of that would give

1       you any problems, is that correct?

2                   PROSPECTIVE JUROR NUMBER NINE:   No.

3                   THE COURT:   Okay.   The next juror who was  
4       seated, was that you, sir?   What's your name?

5                   PROSPECTIVE JUROR NUMBER EIGHT:   John  
6       Nehila.

7                   THE COURT:   Mr. Nehila, did you hear all  
8       the questions that have been asked of the previous  
9       jurors?

10                  PROSPECTIVE JUROR NUMBER EIGHT:   Yes,  
11       sir.

12                  THE COURT:   Which of your answers would be  
13       different?   No close friends or relatives that are  
14       members of a law enforcement agency?

15                  PROSPECTIVE JUROR NUMBER EIGHT:   No, sir.

16                  THE COURT:   No close friends or relatives  
17       who have been victims of a crime?

18                  PROSPECTIVE JUROR NUMBER EIGHT:   No, sir.

19                  THE COURT:   Have you ever served on a jury  
20       before?

21                  PROSPECTIVE JUROR NUMBER EIGHT:   No, sir.

22                  THE COURT:   What about you, ma'am?

23                  PROSPECTIVE JUROR NUMBER NINE:   Yes, I  
24       have.

25                  THE COURT:   You served on a jury before?

1           How long ago was that?

2                       PROSPECTIVE JUROR NUMBER NINE:   Seven  
3           years ago.

4                       THE COURT:   Civil or criminal?

5                       PROSPECTIVE JUROR NUMBER NINE:   Criminal.

6                       THE COURT:   Was there anything -- did you  
7           reach a verdict? But don't tell me what the verdict was,  
8           but did you deliberate in the jury room?

9                       PROSPECTIVE JUROR NUMBER NINE:   We did.

10                      THE COURT:   Okay. And was anything about  
11           that experience which would give you difficulty hearing  
12           this case?

13                      PROSPECTIVE JUROR NUMBER NINE:   No.

14                      THE COURT:   Okay. Did you all hear all  
15           the questions that were asked by Miss Lozen and Mr. Glenn  
16           as to the age of the case and the DNA testing and all of  
17           that stuff?

18                      PROSPECTIVE JUROR NUMBER NINE:   Yes.

19                      THE COURT:   Would any of that give you any  
20           problem in hearing this case? You got to answer  
21           verbally, sir.

22                      PROSPECTIVE JUROR NUMBER EIGHT:   No.

23                      PROSPECTIVE JUROR NUMBER NINE:   No.

24                      THE COURT:   You all understand -- and this  
25           is for all the jurors -- that the testimony you're going

1 to hear -- and ultimately I'm going to instruct you as to  
2 the law as to how you will handle all the testimony, but  
3 all the testimony you're going to hear is going to come  
4 from the witness stand. Do you understand that?

5 This might shock you, but it's only the  
6 answers of the witnesses that's important as to  
7 testimony. Even the questions of the lawyers is not to  
8 be considered as testimony. They are only allowed to ask  
9 questions to give the testimony some frame of reference.  
10 Do you understand that?

11 JURY (In unison): Yes.

12 THE COURT: Anybody have any problems with  
13 that?

14 (No response)

15 THE COURT: Okay. Back you on, Miss  
16 Lozen.

17 MS. LOZEN: Miss Hicky, your relative that  
18 was charged with a crime, was he treated fairly?

19 PROSPECTIVE JUROR NUMBER NINE: As far as  
20 I know. I didn't go to any of his cases.

21 MS. LOZEN: So you didn't follow the  
22 cases?

23 PROSPECTIVE JUROR NUMBER NINE: No.

24 MS. LOZEN: Okay. And do you have an  
25 issue with the fact that this case is nineteen years old?



1 PROSPECTIVE JUROR NUMBER NINE: No.

2 MS. LOZEN: No? Okay. And do you have an  
3 issue with the fact that there is actually only one  
4 witness to this case?

5 PROSPECTIVE JUROR NUMBER NINE: No.

6 MS. LOZEN: And if the Judge tells you  
7 that if you believe that one witness and you believe that  
8 person beyond a reasonable doubt that you can convict on  
9 that one witness' testimony alone. Do you have an issue  
10 with that?

11 PROSPECTIVE JUROR NUMBER NINE: No, I  
12 don't.

13 MS. LOZEN: No, you don't? Okay. Mr.  
14 Nehila, do you have an issue with the fact that if only  
15 one person testifies and you believe that person beyond a  
16 reasonable doubt that you can convict on that testimony  
17 alone?

18 PROSPECTIVE JUROR NUMBER EIGHT: No.

19 MS. LOZEN: Okay. And if you believe that  
20 person you could, in fact, convict if that satisfies all  
21 of the elements of the crime?

22 PROSPECTIVE JUROR NUMBER EIGHT: Yes.

23 MS. LOZEN: Okay. Anyone have any issue  
24 with that for the entire jury panel?

25 JURY (In unison): No.

1 MS. LOZEN: Okay. Miss Wilkins-Webster,  
2 do you have an issue with that?

3 PROSPECTIVE JUROR NUMBER THREE: No.

4 MS. LOZEN: Okay. Thank you. Nothing  
5 further, Judge.

6 THE COURT: Mr. Glenn.

7 MR. GLENN: No questions, Judge. Thank  
8 you.

9 THE COURT: Okay. Mr. Glenn, the  
10 peremptory challenges are back on you.

11 MR. GLENN: Ask the Court to thank and  
12 excuse the juror seated in seat number four and seat  
13 number thirteen.

14 THE COURT: Number four and number  
15 thirteen. See, I asked you before about this, Mr. Glenn.

16 MR. GLENN: You asked --

17 THE COURT: I asked you about that.  
18 You're striking jurors that you had an opportunity to  
19 strike before. You all have an opportunity to step down.  
20 See, that's why we're going so slow cause you're going  
21 back to jurors that we've passed over.

22 MR. GLENN: Can we approach, your Honor,  
23 and I can explain some things?

24 THE COURT: No, you don't have to explain  
25 anything. Make sure that you're --

1 MR. GLENN: It's changing.

2 THE COURT: I understand what you're  
3 saying.

4 MR. GLENN: So it's changing.

5 THE COURT: Counsel --

6 COURT CLERK: Fuller, seat number four,  
7 F-u-l-l-e-r, Randall. Last name is C-a-b-a-d-a-s, seat  
8 number thirteen, first name Lisa.

9 THE COURT: Okay. Sir, your name, sir?

10 PROSPECTIVE JUROR NUMBER FOUR: Randy  
11 Fuller.

12 THE COURT: Mr. Fuller, are you going to  
13 have any problem physically by sitting there for a couple  
14 days?

15 PROSPECTIVE JUROR NUMBER FOUR: Yeah.

16 THE COURT: I saw you coming up there and  
17 you appeared to be in pain.

18 PROSPECTIVE JUROR NUMBER FOUR: I blew my  
19 knee out and my back's killing me. I start physical  
20 therapy on Wednesday.

21 THE COURT: You don't think you can give  
22 us your undivided attention? You have to answer  
23 verbally.

24 PROSPECTIVE JUROR NUMBER FOUR: Pardon?

25 THE COURT: I said, with all that pain do

1           you think you could give us your undivided attention?

2                   PROSPECTIVE JUROR NUMBER FOUR: No.

3                   THE COURT: Okay. I'll excuse him, Miss  
4           Lozen and Mr. Glenn, if you have no objections.

5                   MS. LOZEN: No objections, Judge.

6                   MR. GLENN: No objections.

7                   THE COURT: You may step down, sir. I saw  
8           you struggling to get up there. Nothing like a back  
9           ache, is there?

10                  PROSPECTIVE JUROR NUMBER FOUR: No.

11                  THE COURT: You know, Mr. Fuller, I'm  
12           going to let you go home. Don't go back down there.  
13           Just go on home, okay.

14                  PROSPECTIVE JUROR NUMBER FOUR: Thank you.

15                  COURT CLERK: Gilley, G-i-l-l-e-y,  
16           Janette, seat number four.

17                  THE COURT: Okay. Miss Gilley, did you  
18           hear all the questions I asked of the previous jurors?

19                  PROSPECTIVE JUROR NUMBER FOUR: Yes.

20                  THE COURT: Would any of your answers be  
21           different?

22                  PROSPECTIVE JUROR NUMBER FOUR: Yes.

23                  THE COURT: Which one?

24                  PROSPECTIVE JUROR NUMBER FOUR: My uncle  
25           is a retired State Trooper. My brother was in state

1 prison for raping my niece.

2 THE COURT: How long ago was your brother  
3 incarcerated?

4 PROSPECTIVE JUROR NUMBER FOUR: Eight  
5 years.

6 THE COURT: Eight years ago? Okay. Were  
7 you involved with that in terms of coming to court --

8 PROSPECTIVE JUROR NUMBER FOUR: No.

9 THE COURT: -- or you just knew that he  
10 was charged?

11 PROSPECTIVE JUROR NUMBER FOUR: I just  
12 knew he was charged.

13 THE COURT: Was your niece your brother's  
14 child?

15 PROSPECTIVE JUROR NUMBER FOUR: Yes.

16 THE COURT: Did you ever discuss it with  
17 her, the incident?

18 PROSPECTIVE JUROR NUMBER FOUR: Yes.

19 THE COURT: Have you formed any opinions  
20 about -- you know this is a sexual assault.

21 PROSPECTIVE JUROR NUMBER FOUR: I know.

22 THE COURT: Would that give you any  
23 problem hearing this case?

24 PROSPECTIVE JUROR NUMBER FOUR: No.

25 THE COURT: You could put that out of your

1 mind and be a fair and impartial juror?

2 PROSPECTIVE JUROR NUMBER FOUR: Yes.

3 THE COURT: Okay. Any other incidents  
4 that have happened with the criminal justice system that  
5 you need to tell us about?

6 PROSPECTIVE JUROR NUMBER FOUR: I walked  
7 in on a home invasion.

8 THE COURT: Was it your home?

9 PROSPECTIVE JUROR NUMBER FOUR: Yes.

10 THE COURT: That was quite a shocker,  
11 wasn't it?

12 PROSPECTIVE JUROR NUMBER FOUR: Yeah.

13 THE COURT: And upsetting. Did you get  
14 hurt involved in it?

15 PROSPECTIVE JUROR NUMBER FOUR: No, when I  
16 screamed and ran out he jumped out the window.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NUMBER FOUR: And the  
19 neighbors caught him.

20 THE COURT: Okay. So were the police  
21 called into the situation?

22 PROSPECTIVE JUROR NUMBER FOUR: Yes.

23 THE COURT: Was he arrested?

24 PROSPECTIVE JUROR NUMBER FOUR: Yes, he  
25 was a juvenile.

1 THE COURT: Did you to have come to court?

2 PROSPECTIVE JUROR NUMBER FOUR: No.

3 THE COURT: All right. Do you know what  
4 happened to the case?

5 PROSPECTIVE JUROR NUMBER FOUR: He was a  
6 juvenile. I don't know.

7 THE COURT: You don't know. Okay. Did  
8 you have any problem with the way the police or the  
9 prosecutor or the defense lawyers handled the case, if  
10 you know?

11 PROSPECTIVE JUROR NUMBER FOUR: I don't  
12 know.

13 THE COURT: You don't know, huh?

14 PROSPECTIVE JUROR NUMBER FOUR: I have no  
15 problem with it.

16 THE COURT: Okay. Okay. And you told us  
17 that you have a brother that's a State Trooper retired?

18 PROSPECTIVE JUROR NUMBER FOUR: Yes.

19 THE COURT: Okay. Any other relatives  
20 that are members of law enforcement agency?

21 PROSPECTIVE JUROR NUMBER FOUR: No.

22 THE COURT: Okay. And you told us about  
23 your niece. Have you ever served on a jury before?

24 PROSPECTIVE JUROR NUMBER FOUR: No.

25 THE COURT: Okay. Do you know of any

1 reason why you could not be a fair and impartial juror?

2 PROSPECTIVE JUROR NUMBER FOUR: No.

3 THE COURT: Okay. You heard Mrs. Lozen  
4 talking about the age of this case and the DNA testing.  
5 Does that give you any problems?

6 PROSPECTIVE JUROR NUMBER FOUR: No.

7 THE COURT: Okay. You understand that  
8 ultimately you'll have to decide the facts based on the  
9 law as I give it to you. Do you understand that?

10 PROSPECTIVE JUROR NUMBER FOUR: Yes.

11 THE COURT: Okay. Back on you, Mr. Glenn,  
12 questions.

13 MR. GLENN: No questions, Judge.

14 THE COURT: Okay. Back on you, Miss  
15 Lozen.

16 MS. LOZEN: And do you have an issue with  
17 individuals who go on blind dates and then have  
18 consensual sex?

19 PROSPECTIVE JUROR NUMBER FOUR: No.

20 MS. LOZEN: Okay. And do you think that  
21 gives someone a license later on to rape them?

22 PROSPECTIVE JUROR NUMBER FOUR: No.

23 MS. LOZEN: Okay. And, Judge, did we  
24 question juror number thirteen?

25 THE COURT: No. You can go ahead and



1 question since you're up.

2 MS. LOZEN: Okay. Miss Cabadas --

3 PROSPECTIVE JUROR NUMBER THIRTEEN:

4 Cabadas.

5 MS. LOZEN: -- Cabadas, what kind of  
6 employment do you -- do you have any employment?

7 PROSPECTIVE JUROR NUMBER THIRTEEN:

8 Accounting supervisor.

9 THE COURT: You got to speak up. We can't  
10 hear you.

11 PROSPECTIVE JUROR NUMBER THIRTEEN:

12 Accounting supervisor.

13 MS. LOZEN: Okay. And do you know anyone  
14 who's involved in law enforcement?

15 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

16 MS. LOZEN: Okay. And do you know anyone  
17 who's been the victim of a crime?

18 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

19 MS. LOZEN: Any prior jury service?

20 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

21 MS. LOZEN: Okay. And don't tell us --  
22 was it criminal or civil?

23 PROSPECTIVE JUROR NUMBER THIRTEEN: It was  
24 in this room.

25 MS. LOZEN: This room? Okay. And did you

1 have an opportunity to deliberate?

2 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

3 MS. LOZEN: And don't tell us what the  
4 verdict was, but did you reach a verdict?

5 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

6 MS. LOZEN: Okay. And, Miss Cabadas, do  
7 you have an issue with this case as far as it being  
8 nineteen years old?

9 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

10 MS. LOZEN: Okay. And do you think the  
11 Defendant should still be prosecuted if the law permits  
12 it?

13 PROSPECTIVE JUROR NUMBER THIRTEEN: If the  
14 law permits it.

15 MS. LOZEN: Okay. And you'll still be  
16 willing to listen to the evidence and make a decision on  
17 the case?

18 PROSPECTIVE JUROR NUMBER THIRTEEN: Yes.

19 MS. LOZEN: Okay. Do you have any issue  
20 with consensual sex on the first date?

21 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

22 MS. LOZEN: Okay. And for the two new  
23 jurors, do you both know anyone who's been accused of a  
24 crime involving criminal sexual conduct other than I know  
25 you didn't get -- other than what you've already told us

1 about?

2 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

3 MS. LOZEN: Okay. And, Miss Cabadas, do  
4 you know anyone who's been accused?

5 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

6 MS. LOZEN: And anyone who's been the  
7 victim of a crime even if it wasn't reported to the  
8 police? When I say crime I mean criminal sexual conduct  
9 crime.

10 PROSPECTIVE JUROR NUMBER THIRTEEN: No.

11 MS. LOZEN: And, Miss Gilley, was your  
12 relative, your brother, was he treated fairly by the  
13 criminal justice system?

14 PROSPECTIVE JUROR NUMBER FOUR: As far as  
15 I know.

16 MS. LOZEN: Okay. What about your niece  
17 as the victim, was she treated fairly by the criminal  
18 justice system?

19 PROSPECTIVE JUROR NUMBER FOUR: Yes.

20 MS. LOZEN: You believe yes?

21 PROSPECTIVE JUROR NUMBER FOUR: Yes.

22 MS. LOZEN: Okay. Nothing further, Judge.

23 THE COURT: Mr. Glenn.

24 MR. GLENN: No questions, Judge.

25 THE COURT: Okay. Peremptory challenges

1 are back on you if you have no challenges for cause, Miss  
2 Lozen.

3 MS. LOZEN: None for cause, Judge.

4 MR. GLENN: Pass for cause.

5 MS. LOZEN: No preempts, Judge.

6 THE COURT: Peremptories are back on you,  
7 Mr. Glenn.

8 MR. GLENN: Yes, if the Court would thank  
9 and excuse the juror in seat number four.

10 THE COURT: That's you, ma'am. Thank you,  
11 very much. You may step down.

12 COURT CLERK: Miller, Miller, Norris, seat  
13 number four.

14 THE COURT: Sir, what's your name, sir?

15 PROSPECTIVE JUROR NUMBER FOUR: Norris  
16 Miller.

17 THE COURT: Mr. Miller, what type of work  
18 are you involved in?

19 PROSPECTIVE JUROR NUMBER FOUR: I'm  
20 retired.

21 THE COURT: From what?

22 PROSPECTIVE JUROR NUMBER FOUR: Retail.

23 THE COURT: Retail?

24 PROSPECTIVE JUROR NUMBER FOUR: Yes.

25 THE COURT: Okay. Your wife, was she

1 employed outside the home?

2 PROSPECTIVE JUROR NUMBER FOUR: Single.

3 THE COURT: Single? Okay. Have you, a  
4 close friend or relative of yours ever been the victim of  
5 a crime?

6 PROSPECTIVE JUROR NUMBER FOUR: Yes.

7 THE COURT: What happened, sir?

8 PROSPECTIVE JUROR NUMBER FOUR: In retail,  
9 armed robbery.

10 THE COURT: What, you work in a store type  
11 situation?

12 PROSPECTIVE JUROR NUMBER FOUR: Yes, sir.

13 THE COURT: Okay. Was anyone ever  
14 prosecuted for robbery?

15 PROSPECTIVE JUROR NUMBER FOUR: Uh-huh,  
16 yes.

17 THE COURT: Okay. In court here down in  
18 this building?

19 PROSPECTIVE JUROR NUMBER FOUR: I don't  
20 remember. It's been a while.

21 THE COURT: How long ago was it?

22 PROSPECTIVE JUROR NUMBER FOUR: About  
23 twenty years, at least.

24 THE COURT: Twenty years, at least, okay.  
25 You don't remember the incident? I mean, you remember

1 the incident, but is it in the court system?

2 PROSPECTIVE JUROR NUMBER FOUR: Right.

3 THE COURT: Right. Can you put that out  
4 of your mind and be a fair and impartial juror?

5 PROSPECTIVE JUROR NUMBER FOUR: Yes.

6 THE COURT: Anything happen to any members  
7 of your family or anything that we should know about in  
8 terms of being victims of crimes?

9 PROSPECTIVE JUROR NUMBER FOUR: No.

10 THE COURT: Okay. Do you have any close  
11 friend or relatives who are members of a law enforcement  
12 agency?

13 PROSPECTIVE JUROR NUMBER FOUR: No.

14 THE COURT: Okay. Did you hear the  
15 questions that have been asked by the prosecutor and  
16 defense lawyer about the age of this case and reasonable  
17 doubt and all of that stuff?

18 PROSPECTIVE JUROR NUMBER FOUR: Yes.

19 THE COURT: Do you have any problems with  
20 that?

21 PROSPECTIVE JUROR NUMBER FOUR: No.

22 THE COURT: Okay. You recognize that  
23 you're to judge this case solely on the basis of the  
24 testimony that comes from the witness stand?

25 PROSPECTIVE JUROR NUMBER FOUR: Yes.

1 THE COURT: It's not your duty to  
2 determine the age of the case and whether the case is  
3 relevant or not. You're to determine the facts of the  
4 case. Do you understand that?

5 PROSPECTIVE JUROR NUMBER FOUR: Yes.

6 THE COURT: Can you do that?

7 PROSPECTIVE JUROR NUMBER FOUR: Yes.

8 THE COURT: Okay. Mr. Glenn, it's on you.  
9 You excused.

10 MR. GLENN: No questions, Judge.

11 THE COURT: Back on you, Miss Lozen.

12 MS. LOZEN: Mr. Miller, you indicated it  
13 was an armed robbery from the incident that you were --

14 PROSPECTIVE JUROR NUMBER FOUR: Well,  
15 about six times I've been robbed -- I've been robbed.

16 MS. LOZEN: You've been robbed about six  
17 times?

18 PROSPECTIVE JUROR NUMBER FOUR: Yes.

19 MS. LOZEN: Okay. And during the  
20 incidents did anyone ever have a gun?

21 PROSPECTIVE JUROR NUMBER FOUR: All six  
22 times.

23 MS. LOZEN: All six times they had a gun.  
24 And did you fight the perpetrator during this incident?

25 PROSPECTIVE JUROR NUMBER FOUR: Only once.

1 MS. LOZEN: Only once, okay. The other  
2 times did you voluntarily give the money?

3 PROSPECTIVE JUROR NUMBER FOUR: Yes.

4 MS. LOZEN: Or whatever object they  
5 wanted?

6 PROSPECTIVE JUROR NUMBER FOUR: Well, one  
7 of my cashiers did.

8 MS. LOZEN: One of your cashiers did?

9 PROSPECTIVE JUROR NUMBER FOUR: Yes.

10 MS. LOZEN: Okay. Even though they  
11 voluntarily gave the money did the cashiers fight the  
12 suspect as well?

13 PROSPECTIVE JUROR NUMBER FOUR: Well, one  
14 time.

15 MS. LOZEN: One time?

16 PROSPECTIVE JUROR NUMBER FOUR: Yes.

17 MS. LOZEN: Well, other than that one time  
18 did your cashiers at all fight the suspects at all?

19 PROSPECTIVE JUROR NUMBER FOUR: No.

20 MS. LOZEN: Okay. So they didn't fight  
21 'em off?

22 PROSPECTIVE JUROR NUMBER FOUR: No.

23 MS. LOZEN: Okay. And did they  
24 voluntarily give the money?

25 PROSPECTIVE JUROR NUMBER FOUR: Yes.



1 MS. LOZEN: But even though they  
2 voluntarily gave the money did they consent to giving the  
3 money?

4 PROSPECTIVE JUROR NUMBER FOUR: No.

5 MS. LOZEN: Okay. And do you have any  
6 issues with somebody having sex on the first date?

7 PROSPECTIVE JUROR NUMBER FOUR: No.

8 MS. LOZEN: Okay. Any issues with -- do  
9 you believe that just because they had sex on the first  
10 date they should later on be raped?

11 PROSPECTIVE JUROR NUMBER FOUR: No.

12 MS. LOZEN: Okay. And do you know anyone  
13 who's been accused of a crime -- of a criminal sexual  
14 conduct crime even though it wasn't reported to the  
15 police?

16 PROSPECTIVE JUROR NUMBER FOUR: No.

17 MS. LOZEN: What about the victim of a  
18 crime, criminal sexual conduct crime even if it wasn't  
19 reported to the police?

20 PROSPECTIVE JUROR NUMBER FOUR: No.

21 MS. LOZEN: And can you tell me if only  
22 one person testifies and the victims testifies and you  
23 believe her testimony proves all the elements of the  
24 crime beyond a reasonable doubt could you still convict  
25 on her one testimony?

1 PROSPECTIVE JUROR NUMBER FOUR: Yes.

2 MS. LOZEN: Okay. Nothing further, Judge.

3 THE COURT: All right. It's on you, Mrs.  
4 Lozen. He challenged. If there are no challenges for  
5 cause --

6 MS. LOZEN: None for cause. No preempts,  
7 Judge.

8 THE COURT: Back on you, Mr. Glenn.

9 MR. GLENN: Pass.

10 THE COURT: Okay. So we have a jury.

11 MR. GLENN: Yes, your Honor.

12 THE COURT: All right. Okay. Ladies and  
13 gentlemen of the Jury, we now have a jury, but for the  
14 rest of the jury, you're excused, in the audience.  
15 You're free to return to the first floor.

16 All right. Ladies and gentlemen of the  
17 Jury, I'm going to ask you to go into the jury room and  
18 you can put your purses and things in there. You know  
19 what I'm going to do, if it's okay with counsel, I'm  
20 going to give them a lunch break, okay.

21 I'm going to ask you to come back at one  
22 o'clock, okay. One o'clock. I know that's not a long  
23 time, but as I told you, I work until two. So I'm going  
24 to ask you to come back -- I might go a little bit later  
25 than two, but not much, okay.

1                   So if you want to you can go to lunch.  
2           You have not heard any testimony yet. You have not even  
3           been sworn so don't go out and hypothesize what the  
4           testimony is going to be, okay.

5                   Just to give you some preliminary  
6           instructions, you are not going to be allowed to talk  
7           about the case with anyone until I submit the law that  
8           you are to consider in the case, okay. So even when you  
9           start hearing testimony you can't go home and tell your  
10          spouses or whoever, your friends, that you're hearing  
11          this case now and here's what it's about because, believe  
12          me, having been doing this for thirty some years, if you  
13          start discussing it with someone they will tell you what  
14          the verdict should be, okay, and we don't want that,  
15          okay.

16                   People have a tendency to know more about  
17          the case than you do even though they have heard nothing.  
18          So go out and enjoy your lunch and come back at one  
19          o'clock and we'll start this case, okay.

20                   COURT OFFICER: All rise for the Jury.  
21                   (12:15 P.M. the jury left the courtroom)  
22                   (Whereupon other cases were heard)  
23                   (1:15 P.M. back on record)  
24                   (1:15 P.M. the jury was brought into  
25                   The courtroom)

1 THE COURT: Ya'll may be seated. Miss  
2 Lozen, do you stipulate the jurors are present in their  
3 proper seats?

4 MS. LOZEN: Yes, Judge.

5 THE COURT: Mr. Glenn?

6 MR. GLENN: Yes, your Honor.

7 THE COURT: All right. Ladies and  
8 gentlemen of the Jury, as the trial begins with jury  
9 selection --

10 COURT CLERK: Oh, do you want me to swear  
11 them in?

12 THE COURT: Ladies and gentlemen of the  
13 Jury, you've been chosen to decide a criminal charge made  
14 by the state of Michigan against one of your fellow  
15 citizens. I will now ask you to stand and swear to  
16 perform your duties, to try this case justly and to reach  
17 a true verdict.

18 If your religious beliefs do not permit  
19 you to take an oath you may instead affirm to try the  
20 case justly and reach a true verdict. So, ladies and  
21 gentlemen, if you will please stand now the Clerk will  
22 swear you.

23 COURT CLERK: Raise your right hands.

24 (1:16 P.M. the jury was sworn in by the  
25 Court Clerk as follows)

1 COURT CLERK: Do all of you solemnly swear  
2 or affirm to truthfully deliberate this case according to  
3 the evidence and the laws of this case?

4 JURY (In unison): I do.

5 THE COURT: All right. Ladies and  
6 gentlemen, you may be seated. Now, ladies and gentlemen,  
7 I will explain some of the legal principles that you will  
8 need to know and the procedures that we will follow in  
9 this trial.

10 A trial follows this procedure. First,  
11 the prosecutor must make an opening statement where she  
12 gives you her theory of the case. The Defendant's lawyer  
13 does not have to make a statement. He can either reserve  
14 his statement 'til after the People rest or he can waive  
15 his statement all together.

16 He has no burden and the reason he does  
17 not have to make a statement is because he has no burden  
18 of proof. The prosecutor must prove each and every  
19 element beyond a reasonable doubt and the elements of  
20 these offenses are as follows.

21 First let me read the Information to you  
22 again. As I indicated to you earlier, the Defendant, Mr.  
23 Arthur Larome Jemison, it's alleged on or about 9-14-1996  
24 at Weyher at McClellan, in the city of Detroit he did  
25 commit criminal sexual conduct and that he did engage in

1 sexual penetration; to-wit, his penis to the genital  
2 opening with Talisha Sams Dowe under the following  
3 instructions; during the commission of a felony of  
4 kidnapping or the Defendant was armed with a weapon or  
5 any article used in a fashion or manner to lead the  
6 victim to so reasonably believe it to be a weapon.

7 In Count II he's charged with criminal  
8 sexual conduct in the first degree and that he did engage  
9 in sexual penetration; to-wit, fellatio with Talisha Sams  
10 Dowe under the following circumstances; during the  
11 commission of a felony of kidnapping or the Defendant was  
12 armed with a weapon or any article used or fashioned in a  
13 manner to lead the victim to reasonably believe it to be  
14 a weapon, contrary to the laws of the state of Michigan.  
15 Those are the charges that have been lodged against Mr.  
16 Jemison.

17 Ladies and gentlemen of the Jury, criminal  
18 sexual conduct contains the following elements. The  
19 Defendant is charged with the crime of first degree  
20 criminal sexual conduct. To prove this charge the  
21 prosecutor must prove each of the following elements  
22 beyond a reasonable doubt.

23 First, that the Defendant did engage in a  
24 sexual act that involved entry into Talisha Sams Dowe's  
25 genital opening by the Defendant's penis. Any entry, no

1 matter how slight, is enough. It does not matter whether  
2 the sexual act was completed or whether semen was  
3 ejaculated.

4 Second, either that the Defendant was  
5 armed with a weapon. Any object used or fashioned in a  
6 manner to -- a weapon or with any object used or  
7 fashioned in a manner to lead Talisha Sams Dowe to  
8 reasonably believe that it was a weapon or that the  
9 alleged sexual act occurred under circumstances that also  
10 involved kidnapping which I will explain.

11 The elements of kidnapping are as follows.  
12 First, that the Defendant forcefully confined or  
13 imprisoned Talisha Sams Dowe against Talisha Sams Dowe's  
14 will. Second, that the Defendant did not have the legal  
15 authority to confine Talisha Dowe. Third, that while the  
16 Defendant was -- while the Defendant was confining  
17 Talisha Sams Dowe he forcibly moved or caused Talisha  
18 Sams Dowe to be moved from one place to another for the  
19 purpose of kidnapping.

20 If Talisha Sams Dowe was moved as part of  
21 a crime other than kidnapping this is not enough. In  
22 this case, for instance, you should consider whether  
23 Talisha Sams Dowe was moved for the purpose of kidnapping  
24 or as part of the crime of criminal sexual conduct.

25 In determining whether Talisha Sams Dowe

1 was moved for the purpose of kidnapping you may consider  
2 how far Talisha Dowe was moved and whether being moved  
3 added any greater danger or threat to Talisha Sams Dowe  
4 than the crime of criminal sexual conduct. Talisha Sams  
5 Dowe must have been moved for the purpose of kidnapping  
6 and this movement must have been independent of the other  
7 crime.

8 Fourth, that the Defendant intended to  
9 kidnap Talisha Sams Dowe. Fifth, that the Defendant was  
10 acting willfully and maliciously. This means that the  
11 Defendant knew that it was wrong to confine Talisha Sams  
12 Dowe and knew that he did not have the legal authority to  
13 do so.

14 The Defendant's also charged with the  
15 crime of criminal sexual conduct in the first degree in  
16 the second count. Is this the same thing?

17 MS. LOZEN: It is the same, but the  
18 penetration is different.

19 THE COURT: Well, okay. All right.  
20 First, that the Defendant engaged in a sexual act. That  
21 is involving entry into Talisha Sams Dowe's mouth by the  
22 Defendant's penis. Any entry no matter how slight is  
23 enough. It does not matter whether the sexual act was  
24 completed or whether semen was ejaculated.

25 Second, either that the Defendant was



1 armed at the time with a weapon or with any object used  
2 or fashioned in a manner to lead Talisha Sams Dowe to  
3 reasonably believe that it was a weapon or that the  
4 alleged sexual act occurred under circumstances that also  
5 involved kidnapping which I will explain.

6 The elements of kidnapping are as follows.  
7 First, that the Defendant forcibly confined or imprisoned  
8 Talisha Sams Dowe against Talisha Sams Dowe's will.  
9 Second, that the Defendant did not have the legal  
10 authority to confine Talisha Sams Dowe. Third, that  
11 while the Defendant was confining Talisha Sams Dowe he  
12 forcibly moved or caused Talisha Sams Dowe to be moved  
13 from one place to another for the purpose of kidnapping.

14 If Talisha Sams Dowe was involved as part  
15 of the crime other than kidnapping this is not enough.  
16 In this case, for instance, you should consider whether  
17 Talisha Sams Dowe was moved for the purpose of kidnapping  
18 or as part of the crime of criminal sexual conduct.

19 In determining whether Talisha Sams Dowe  
20 was moved for the purpose of kidnapping you may consider  
21 how far Talisha Sams Dowe was moved and whether being  
22 moved added any greater danger or threat to Talisha Sams  
23 Dowe than the crime of criminal sexual conduct.

24 Talisha Sams Dowe must have been moved for  
25 the purpose of kidnapping and this movement must have

1        been independent of the other crimes. Fourth, that the  
2        Defendant intended to kidnap Talisha Sams Dowe. And,  
3        fifth, that the Defendant acted willfully and  
4        maliciously. This means that the Defendant knew it was  
5        wrong to confine Talisha Sams Dowe and knew that he did  
6        not have the legal authority to do so.

7                Next, the prosecutor presents his or her  
8        evidence. The prosecutor may call witnesses to testify  
9        and may show you exhibits like documents or objects. The  
10       Defendant has the right, as the lawyer, to cross-examine  
11       on behalf of his client.

12               After the prosecutor has presented all of  
13       her evidence the Defendant's attorney may also offer  
14       evidence, but does not have to. By law the Defendant  
15       does not have to prove his innocence or produce any  
16       evidence. If the defense does not call any witnesses the  
17       prosecutor has a right, if the defense does call any  
18       witnesses, the prosecutor has a right to cross-examine  
19       them.

20               The prosecutor may also call witnesses to  
21       contradict the testimony of the defense witnesses.  
22       That's what we call rebuttal. After all the evidence has  
23       been presented the prosecutor and the defense lawyer will  
24       make their closing arguments. Like the opening  
25       statements, these are not evidence. They are only meant

1 to help you understand the evidence and the way each side  
2 sees the case. You may base your verdict only on the  
3 evidence.

4 My responsibility as Judge in this trial  
5 are to make sure that the trial is run in a fair and  
6 efficient way, to make decisions about evidence and to  
7 instruct you about the law that applies to this case.  
8 You must take the law as I give it to you. Nothing I say  
9 is meant to reflect my opinion about the facts of this  
10 case.

11 As jurors you are the ones who will decide  
12 this case. Your responsibility as jurors is to decide  
13 what the facts of the case are. This is your job and no  
14 one else's. You must think about all the evidence and  
15 all the testimony and then decide what each piece of  
16 evidence means and how important you think it is. This  
17 includes how much you believe of what each of the witness  
18 said. What you decide about any fact in this case is  
19 final.

20 When it is time for you to decide the case  
21 you're only allowed to consider the evidence that was  
22 admitted in this case. Evidence includes only the sworn  
23 testimony of witnesses, the exhibits admitted into  
24 evidence and anything else I tell you to consider as  
25 evidence.

1                   The Court will now allow each party to  
2                   provide commentaries. The lawyers' commentaries are not  
3                   evidence. They are only meant to help you understand the  
4                   evidence and each side's legal theories. You should only  
5                   accept the things that the lawyers say that are supported  
6                   by the evidence or by your own common sense and your own  
7                   knowledge.

8                   All of my earlier instructions about  
9                   basing your decision on the evidence and law continues to  
10                  apply, judging the credibility and weight of the  
11                  evidence. It is your job to decide what the facts of  
12                  this case are. You must decide which witnesses you  
13                  believe and how important you think their testimony is.  
14                  You do not have to accept or reject everything a witness  
15                  says. You are free to believe all, none or part of any  
16                  person's testimony.

17                  In deciding which testimony you believe  
18                  you should rely only on your own common sense and every  
19                  day experience. However, in deciding whether you believe  
20                  a witness' testimony you must set aside any bias or  
21                  prejudice you may have based on race, gender or national  
22                  origin of the witness.

23                  There's no fixed set of rules for judging  
24                  whether you believe a witness, but it may help to think  
25                  about these questions. Was the witness able to see or

1 hear clearly? How long was the witness watching or  
2 listening? Was anything else going on that might have  
3 distracted the witness? Does the witness seem to have a  
4 good memory? Does the witness look and act -- how does  
5 the witness look and act while testifying?

6 Does the witness seem to be making an  
7 honest effort to tell the truth or does the witness seem  
8 to evade the questions or argue with the lawyers? Does  
9 the witness' age or maturity effect how you judge his or  
10 her testimony? Does the witness have any bias or  
11 prejudice or any personal interest in how this case is  
12 decided?

13 Have there been any promises, threats,  
14 suggestions or other influences that effect how the  
15 witness testifies? In general, does the witness have any  
16 special reason to tell the truth or any special reason to  
17 lie?

18 All in all, how reasonable does the  
19 witness' testimony seem when you think about all the  
20 other evidence in the case?

21 The questions the lawyers asks the  
22 witnesses are not evidence. Only the answers are  
23 evidence. You should not think that something is true  
24 just because one of the lawyers ask some questions that  
25 assume or suggest that it is.

1 I may ask some questions of the witnesses  
2 myself. These questions are not meant to reflect my  
3 opinion about the evidence. If I ask a question my only  
4 reason would be to ask the things that may not have been  
5 fully explored.

6 During the trial you may think of an  
7 important question that would help you understand the  
8 facts in this case. You are allowed to ask questions.  
9 You should wait to ask questions 'til after the witness  
10 has finished testifying and both sides have finished  
11 their questioning.

12 If you still have an important question  
13 after this do not ask it yourself. Raise your hand,  
14 write the question down and pass it to the bailiff who  
15 will give it to me. Do not show your question to the  
16 other jurors. If your question is not asked it is  
17 because I determined under the law that the question  
18 should not be asked.

19 Do not speculate about why questions were  
20 not asked. In other words, you should draw no  
21 conclusions or inferences about the facts of the case,  
22 nor should you speculate about what the answer might have  
23 been.

24 Also, in considering the evidence you  
25 should not give greater weight to testimony merely

1 because it was given in answer to a question submitted by  
2 a member of the jury. On the other hand, if you cannot  
3 hear a witness or lawyer please raise your hand  
4 immediately and ask to have the question or answer  
5 repeated.

6 During the trial the lawyers may object to  
7 certain questions or statements made by other lawyers or  
8 witnesses. I will rule on those objections according to  
9 the law. My rulings for or against one side or the other  
10 are not meant to reflect an opinion about the facts of  
11 this case.

12 Sometimes the lawyers and I will have  
13 discussions out of your hearing. They might ask if they  
14 can approach the bench. Also while you're in the jury  
15 room I may have to take care of other matters that have  
16 nothing to do with this case. Please pay no attention to  
17 these interruptions.

18 Please do not attempt to discuss this case  
19 with anyone including your family or friends. You must  
20 not discuss the case with other jurors until the time  
21 comes for you to decide the case. When it is time for  
22 you to decide the case I will send you to the jury room  
23 for that purpose. Then you should discuss the case among  
24 yourselves, but only in the jury room and only when all  
25 jurors are there. When the trial is over you may, if you

1 wish, discuss the case with anyone.

2 If I call for a recess during the trial I  
3 will either send you back to the jury room or allow you  
4 to leave the courtroom on your own and go about your  
5 business, but you must not discuss the case with anyone  
6 or let anyone discuss it with you or in your presence.

7 If someone tries to do that tell him or  
8 hear to stop and explain that as a juror you are not  
9 allowed to discuss the case. If he or she continues  
10 leave and report this incident to me as soon as you  
11 return to the Court.

12 You must not talk to the Defendant, the  
13 lawyers or the witnesses about anything at all even if it  
14 has nothing to do with the case. It is very important  
15 that you only get information about the case in court  
16 when you're acting as a jury and when the Defendant, the  
17 lawyers and I are all here.

18 During the trial do not read, listen or  
19 watch any news reports about the case. Under the law the  
20 evidence you consider to decide the case must meet  
21 certain standards. For example, witnesses must swear to  
22 tell the truth and the lawyer must be able to  
23 cross-examine them.

24 Because news reports do not have to meet  
25 these standards they could give you incorrect or



1 misleading information that might unfairly favor one  
2 side. So to be fair to both sides you must follow the  
3 instructions. We're not going to be sequestering the  
4 jurors, though.

5 The restrictions I'm about to describe are  
6 meant to insure the parties get a fair trial. In our  
7 judicial system it is crucial that jurors are not  
8 influenced by anything or anyone outside the courtroom.  
9 Now that many jurors have access to information through  
10 handheld devices or other technology jurors may be  
11 tempted to use these devices to learn more about some  
12 aspects of the case.

13 If a juror were to do this it would harm  
14 the parties. The parties' attorneys would have no way of  
15 knowing the juror got outside information and would have  
16 no chance to object if that information was false,  
17 untrustworthy or irrelevant. Remember, no matter how  
18 careful and conscientious news reporters, family members,  
19 friends and other people outside the courtroom may be,  
20 information about the case from television, radio or the  
21 internet and social media will inevitably be incomplete  
22 and could be incorrect.

23 Please bare these things in mind and I'll  
24 read the following instructions. These restrictions  
25 apply from this moment until I discharge you from jury

1 service. You must decide this case based solely on the  
2 evidence you see and hear in this courtroom. You must  
3 not consider information that comes from anywhere else.  
4 This means that during the trial you must not read, watch  
5 or listen to news reports about the case whether on  
6 newspaper, on television, on the radio or on the  
7 internet.

8 You also must not research any aspect of  
9 the case during the trial. This means using research --  
10 this means researching using a cellular phone, computer  
11 or other electronic device to search the internet as well  
12 as research with traditional sources like dictionaries,  
13 reference manuals, newspapers or magazines.

14 You must not investigate the case on your  
15 own or conduct any experiments concerning the case,  
16 including investigation or experiments using the  
17 internet, computer, cellular phones or other electronic  
18 device.

19 You must not visit the scene of any event  
20 at issue in this trial. If it is necessary for you to  
21 view or visit the scene court staff will take you there  
22 as a group under court supervision.

23 You must not consider as evidence any  
24 personal knowledge that you have of the scene. Before  
25 your deliberations you must not discuss this case with

1 anyone, even your fellow jurors. After you begin  
2 deliberations you must discuss this case with your fellow  
3 jurors, but still not discuss the case with anyone else  
4 until I discharge you from jury service.

5 Until I have discharged you from jury  
6 service you must not share any information about this  
7 case by any means including cellular phones or social  
8 media. If you discover that a jury has violated my  
9 instructions report it to the bailiff.

10 I have provided you with some pads and  
11 pencil. You may take notes during the trial if you wish,  
12 but of course you don't have to. If you do take notes  
13 you should be careful that it does not distract from you  
14 paying attention to all of the evidence.

15 When you go to the jury room to decide  
16 your verdict you may use your notes to help you remember  
17 what happened in the courtroom. If you take notes do not  
18 let anyone except the other jurors see them during  
19 deliberation. You must turn them over to the bailiff  
20 during recesses. Your notes will not be examined by  
21 anyone and when your jury service concludes your notes  
22 will be collected and destroyed.

23 As you can see we have chosen a jury of  
24 fourteen. After you've heard all the evidence and my  
25 instructions we will decide by lot to draw two of you,

1 because the jury only consists of twelve people.

2 After all the evidence has been presented  
3 and the lawyers have given their arguments I will give  
4 you detailed instructions about the rules that apply in  
5 this case. Then you will go to the jury room to decide  
6 on your verdict.

7 A verdict must be unanimous. That means  
8 that every juror must agree on it and it must reflect the  
9 individual decision of each juror. It is important for  
10 you to keep an open mind and not make a decision about  
11 anything in the case until you go to the jury room to  
12 decide the case.

13 All right. Ladies and gentlemen of the  
14 Jury, those are the preliminary jury instructions prior  
15 to you hearing it. After the People have put in their  
16 case and the defense has rested I will then give you  
17 further instructions, but as of now you will hear opening  
18 statements from the prosecutor, Mrs. Lozen. You ready?

19 MS. LOZEN: Yes, Judge.

20 THE COURT: Sure.

21 MS. LOZEN: Good afternoon, everybody.

22 JURY (In unison): Good afternoon.

23 MS. LOZEN: I would first like to indicate  
24 to you that Detective Sabo has now joined us. He was in  
25 another trial and he's now with us for our trial.

1                   So I first want to tell you just again  
2                   thank you for your service and to begin with, the victim  
3                   in this case was doing nothing wrong. She was minding  
4                   her own business and was just minding her own business  
5                   when an individual, the Defendant, hopped into the car  
6                   she was leaving in and then drove the car off with her  
7                   inside and then eventually kidnaps her, robs her and then  
8                   rapes her.

9                   Now, as you heard or as you guessed this  
10                  case did occur many years ago on September 14th, of 1996  
11                  and the opening statements are my opportunity to tell you  
12                  what I believe the evidence in this case will show and as  
13                  you heard, Miss Talisha Sams Dowe is the victim in this  
14                  case and she will tell you that on September 14th, of  
15                  1996 she was working as a dancer at a club in the city of  
16                  Detroit and while she was there -- it's an after hours  
17                  club meaning that she didn't start work until two A.M.  
18                  and then finished at five A.M.

19                  While she was there she met someone who  
20                  she had seen in the neighborhood, but had never actually  
21                  spoken with. This person introduced himself as Delano  
22                  and this person, again, started to speak with her and she  
23                  had a conversation.

24                  He did ask her for a dance and she will be  
25                  honest with you and tell you that she did dance for him

1 and as they are speaking they're just having a get to  
2 know you conversation. At the end of the morning he  
3 offers to take her out to breakfast and she agreed and as  
4 they were on their way to breakfast she'll be honest with  
5 you and she'll tell you that her and Delano had  
6 consensual sex.

7 She then asks Delano if he would please  
8 take me home, and he agreed, and he said, I have to first  
9 make a stop. As he is stopping he drives to Weyher  
10 Street, in the city of Detroit and while he's on Weyher  
11 Street he parks his car.

12 Now, Miss Talisha Sams Dowe will tell you  
13 that he had an older model Monte Carlo, but it had -- it  
14 was the kind of car that somebody enjoyed and would  
15 invest in and he had done things to, you know -- he had  
16 done things to improve the car and so while she's -- he  
17 pulls up to Weyher Street and while he's on Weyher Street  
18 he parks the car, but leaves the engine running and then  
19 goes into a house.

20 Now, Miss Sams Dowe will tell you that she  
21 didn't think anything of it. He goes in this house and  
22 she's waiting out in the car and as she's waiting out in  
23 the car he eventually returns she said maybe twenty to  
24 thirty minutes later.

25 He then gets back in the car, Delano, and

1 he drives down Weyher Street to another house. She  
2 didn't really think too much again of it because she --  
3 you know, they had just met and he just needed to take  
4 care of some business and was going to drop her off at  
5 home.

6 Again, Delano leaves the car running and  
7 she's in the passenger seat and then he goes into another  
8 house and as he goes into another house another unknown  
9 man comes out of the alley that's at the end of the  
10 street. The alley was on McClellan and, again, they're  
11 on Weyher Street, in the city of Detroit, right where  
12 these two streets intersect and this unknown man had a  
13 baseball cap on and the cap was down over his face and,  
14 again, she thought nothing of it, that he was simply  
15 going to pass by and nothing else was going to come of  
16 it.

17 Instead, this man hops into the driver's  
18 seat and then immediately pulls a gun out and points this  
19 gun at her. This man then puts the car in gear and  
20 drives off. He tells her to give me all of your money  
21 and give me your jewelry and Miss Sams Dowe will tell you  
22 that she thought she was being robbed at this point.

23 He's driving the car down the street and  
24 he goes to another street that's close by, but on this  
25 other street -- again, it's early morning hours. There's

1 no one around, no pedestrians, no other cars, and  
2 there's -- actually he pulls into a vacant lot. When  
3 he's in this lot he tells her to suck my dick and he  
4 unzips his pants and forces her at gunpoint to perform  
5 fellatio which is penis into -- or his penis into her  
6 mouth and while -- after she's done performing this  
7 fellatio she'll tell you that this all happened fairly  
8 quick cause he got -- again, the second street that  
9 they're on is one street over from Weyher and McClellan  
10 and while -- after she performs fellatio he then tells  
11 her to take off her pants and underwear.

12 Again, the gun is still present and he  
13 then, on the bench in the Monte Carlo, he sexually  
14 assaults her again by putting his penis into her vagina.  
15 Miss Sams Dowe will tell you that she did not resist him  
16 because, again, he had this gun and after he sexually  
17 assaulted her by putting his penis in her vagina he then  
18 takes off her necklace as well as her rings that she was  
19 wearing as well as the money that she had and he tells  
20 her to get out of the car.

21 Miss Sams Dowe, again, she's in the area  
22 close to where her grandmother lived and she eventually  
23 makes her way to her grandmother's house. When she's at  
24 her grandmother's house she eventually calls her sister,  
25 her older sister, and her older sister then takes her to



1 the police department where a report is made of this  
2 assault.

3 She is then taken to the hospital where,  
4 again, she has no idea of who this unknown man was that  
5 sexually assaulted her and the doctors at the hospital  
6 collect a rape kit and now, remember, this is 1996. The  
7 rape kit is collected and then it is actually stored at  
8 the Detroit police property section where it remains  
9 untested until it would probably be about 2014 when this  
10 kit was finally tested and this kit was tested as part of  
11 a project to test untested rape kits.

12 When this kit was tested there was, in  
13 fact, a result and the result of that kit identified the  
14 Defendant, Arthur Jemison, as his DNA present in that  
15 kit. That test result that indicated the Defendant's DNA  
16 in that kit is what reopened the investigation and that's  
17 why we're here today.

18 Miss Sams Dowe will tell you that in 2015  
19 she is contacted by Detective Sabo who asked her, do you  
20 want to participate in this project? Do you want to be  
21 involved in the investigation? And she will tell you  
22 that she did, in fact, want to be involved twenty years  
23 later, nineteen years later, and during this case you're  
24 going to hear that some of the witnesses may testify out  
25 of order because I'm doing that to accommodate their

1 schedules so don't put too much on that. It's really  
2 just to accommodate People's schedules and at the end of  
3 this case I will have another opportunity to speak with  
4 you.

5 During this case, though, I'm going to ask  
6 you to keep an open mind and to listen to all the  
7 evidence and not to make a decision until the end of the  
8 case when you've heard all of the evidence and the Judge  
9 is going to instruct you on the elements and at the end  
10 of the trial I will have another opportunity to speak  
11 with you and at the end I will ask you to find the  
12 Defendant guilty, not because I say he's guilty, but  
13 because the evidence has proven he is guilty beyond a  
14 reasonable doubt. Thank you, very much.

15 THE COURT: Counsel.

16 MR. GLENN: Good afternoon, everyone.

17 JURY (In unison): Good afternoon.

18 MR. GLENN: Now, this is my opportunity to  
19 give you a thumbnail sketch of what I believe the  
20 testimony in this case will show, what the evidence in  
21 this case will show.

22 Now, notice this case goes all the way  
23 back to September the 14th, 1996. On that date Talisha  
24 Sams Dowe was a dancer at the Outcast Motorcycle Club.  
25 What I mean by dancer, she's an exotic dancer. It means

1 she gives lap dances. Not dancing on a pole or anything  
2 like that. She gives lap dances.

3 Now, on this night she allegedly meets a  
4 person by the name of Delano. According to her she's  
5 never seen him before, never met him before. Now, she's  
6 started work at about two o'clock in the morning, gets  
7 off at late morning hours, about five thirty-ish,  
8 somewhere in that neighborhood and she decides to leave  
9 this location with Delano.

10 Now, like the prosecutor indicated, they  
11 agreed to go out to breakfast. On their way to breakfast  
12 they decide to go to another house, a friend's house,  
13 Delano's friend's house, and have sex.

14 Now, the reason why this is something that  
15 you need to listen to is because going all the way back  
16 to later on this evening that the incident took place and  
17 the police were called, Miss Dowe Sams gave a statement  
18 and she told the officers what allegedly happened that  
19 day and there's no mention in that statement about  
20 stopping off with Delano and having sex.

21 Now, after they had sex she wanted to go  
22 home and have a ride home. Breakfast was out the window  
23 at this point in time. Delano says, all right. He had  
24 to make some runs. He goes over to a location on Weyher  
25 and McClellan. There's a house there. He gets out, goes

1 in the house.

2 Now, when he gets out of the car and runs  
3 up to the house he's not in there just for a minute or  
4 two. He's in there for thirty to forty minutes and the  
5 engine of the car was allegedly running. Once he comes  
6 back out Miss Sams Dowe, she's still in the passenger  
7 seat of the car. He gets in the car and he drives about  
8 five or six houses down the street to the end of the  
9 block where the alley is and he gets out of the car  
10 again.

11 When I say he, I'm talking about the  
12 person known as Delano, and he goes into another house  
13 and according to Talisha, Miss Sams Dowe, a person  
14 appears out of the alley at that point in time and was  
15 walking around the car.

16 Now, she said she couldn't see his face.  
17 She gave some indication about what kind of clothing he  
18 had on and as he was going around the car he opened the  
19 driver's door, hopped in the car, produced a gun, pointed  
20 it at her, I believe pointed it in between her legs and  
21 said, give me all your money, jewelry, money, and at that  
22 point in time he drives -- he puts the car in gear.

23 It was running for this thirty, forty  
24 minutes, puts the car in gear and drives towards  
25 Belvidere where he stops and at this point in time he

1 stops, takes the money, takes the jewelry off of this  
2 lady and tells her to remove her clothes. Then he asks  
3 her to perform fellatio.

4 Now, once again going back to the  
5 statement that she gave to the police -- when I say she,  
6 Talisha, she never once mentioned that she was forced to  
7 do fellatio on this day, but after performing fellatio  
8 she claims that this individual got on top of her, put  
9 his penis in her vagina, had sex, and then got up off of  
10 her and drove a few blocks towards Belvidere, off of  
11 Rohns to Belvidere and told her to get out of the car and  
12 drove the car away.

13 Now, in this case you're not going to hear  
14 any evidence about whatever happened to Delano. You're  
15 not going to have any evidence about what happened to  
16 Delano's car or anybody inquiring about what happened to  
17 Delano's car.

18 According to Miss Sams Dowe she left that  
19 location and she walked from Belvidere to Van Dyke and at  
20 Van Dyke, Van Dyke to Mack. Now, at Van Dyke and Mack  
21 she has a friend's house, Ebony Jones. Now, it's not  
22 that she just went straight to her grandmother's house or  
23 where she was living. She made another stop and while  
24 she was at the stop she's there for fifteen, twenty  
25 minutes, but while she's there no phone call was made to

1 the police, no one was notified of what allegedly took  
2 place and as she's walking, remember, this is early  
3 morning hours.

4 At this point in time it's about seven  
5 thirty in the morning. According to Miss Dowe there's  
6 nobody on the street, no place she could have gone to say  
7 anything about what had happened to her, but she goes to  
8 Miss Jones' house and while she's there she gets into an  
9 argument and subsequently a fight with Ebony Jones'  
10 cousin and cousin's sister and she gets hit in the eye.

11 Then she decides to leave that location  
12 and walk to her grandmother's house, her grandmother's  
13 house on Van Dyke and Sheridan, and once she's at Van  
14 Dyke and Sheridan then she makes a call to the police and  
15 has a rape kit taken.

16 Now, later on that evening after the rape  
17 kit is performed, Sex Crime goes and takes a statement.  
18 It was a written statement back then. It's not the video  
19 stuff. So it's a handwritten statement that's written  
20 out about what allegedly took place that day.

21 Now, the rape kit wasn't tested until just  
22 recently and there was a DNA identification on there, but  
23 in this case here the DNA is something that's going to  
24 have to be looked at very closely because I want to make  
25 sure I get this quote right.

1                   You're going to hear evidence on a lab  
2                   report that's authored by Catherine Maggert, forensic  
3                   scientist, that she analyzed one of the swabs and she  
4                   analyzed the vaginal swab on Kit Number 14-20030-1.0.  
5                   Technical stuff here, but when we start talking about  
6                   chain and custody and so forth we have yet to be real  
7                   specific about what we're talking about.

8                   When that piece of evidence was analyzed  
9                   this is what was written in the report by the forensic  
10                  scientist. The DNA profile obtained from the elliptical  
11                  fraction of item Kit 14-20030-1.0, vaginal swabs, is  
12                  consistent with the victim.

13                  One additional DNA type foreign to item  
14                  Kit 14-2003-4.0 reference, that would be Talisha Sams,  
15                  was obtained -- was obtained indicating an additional --  
16                  additional donor or artifact.

17                  Item Kit 14-20030-2A, known buccal swab of  
18                  Arthur Jemison is excluded as a possible donor to a DNA  
19                  profile from the elliptical fraction of the kit that I  
20                  named before with the vaginal swab.

21                  She goes on in her report to say the DNA  
22                  types obtained from the sperm fraction of item kit  
23                  14-20030-10, vaginal swabs, are consistent with a mixture  
24                  of at least two individuals, including a major male  
25                  contributor. Talisha Sams is excluded as one of the two

1 major donors of the sperm fraction of this kit.

2 The minor DNA that was obtained was too  
3 small to make an identification on. It was identified as  
4 DNA. It was identified as not being from Talisha Sams  
5 and identified as not being from Mr. Jemison. The reason  
6 why I bring this up is because you haven't heard  
7 everything that's going on right now and you have to  
8 listen very closely to the evidence in this case because  
9 what you're hearing from the witness stand that is being  
10 presented that this DNA that was taken from Miss Sams  
11 Dowe is the only person that she was with and that's  
12 simply not true. That's not what the evidence is going  
13 to show.

14 Now, just because you can't identify who  
15 this other DNA belongs to doesn't mean that person  
16 doesn't exist and just like Miss Sams Dowe didn't talk  
17 about stopping off to have casual first date sex with  
18 Delano, just like she didn't talk about having -- being  
19 forced to do fellatio in the car. What else did she  
20 leave out that night?

21 That's what this case is going to be  
22 about. That's what the evidence in this case is going to  
23 be about, whether or not Miss Sams Dowe is telling you  
24 everything.

25 Now, the evidence is going to show that



1 Miss Sams Dowe visually doesn't know who did it. She  
2 claims that during all this she didn't get a good look at  
3 the person's face, even though he forced her to do  
4 fellatio, even though he got on top of her and inserted  
5 his penis in vagina while they were face to face, she  
6 doesn't -- didn't get a good look at his face, when he  
7 left.

8 Now, one thing that was left out is fast  
9 forwarding to 2015 there was a photo identification that  
10 was done. The police, when they were talking to Miss  
11 Sams Dowe, compiled some photographs, put these things  
12 together and they asked Miss Sams Dowe, do you see the  
13 person -- the perpetrator in this picture array and she  
14 couldn't.

15 Now, the person that she knows as Artie's  
16 picture was in that array and later on she was  
17 questioned, well, out of these pictures here that were in  
18 this photo array, the person who we have a hit on the DNA  
19 is this person right here. You didn't know who it was?  
20 They said, well, why didn't you pick this person out?  
21 Cause I didn't think it would be Artie. He weighed a lot  
22 less at that time. Mr. Jemison, two hundred pounds. The  
23 perpetrator about a hundred and fifty pounds.

24 And there's going to be evidence that over  
25 the period of time Miss Sams Dowe has had a opportunity

1 to see this individual visually and not once did she say,  
2 hey, I think that's the person that did this to me. Not  
3 at all. It's going to be a short trial, but it's going  
4 to be a very important trial.

5 The evidence that comes from the stand is  
6 going to be extremely important not only from the  
7 civilian witnesses, but also from the scientists --  
8 scientific evidence, because what we have here, we're  
9 going to be going off of what they wrote in their report  
10 and whether or not they can explain, justify, recant,  
11 whatever they're going to do when they get on the witness  
12 stand.

13 After everything's done here I'm going to  
14 be asking to you find my client not guilty. He didn't do  
15 this to this lady. He's not guilty. He had consensual  
16 sex with her, but he wasn't the person who raped her and  
17 Miss Sams Dowe who was lap dancing at the motorcycle club  
18 is not telling you everything that happened that night.  
19 Thank you.

20 THE COURT: All right. Now, ladies and  
21 gentlemen that's it for today. Okay. You have not heard  
22 any testimony yet. As I indicated to you earlier,  
23 opening statements by the lawyers is not to be considered  
24 as evidence, but I also want to caution you that don't  
25 try to surmise what the evidence is going to be since you

1 have heard an outline of what the case is going to be,  
2 okay. All right. Enjoy your evening. Don't discuss it  
3 with anyone. See you tomorrow morning at nine fifteen,  
4 okay. Come directly here. You're going to give them the  
5 badges?

6 COURT OFFICER: Yes.

7 THE COURT: You got 'em. The Deputy is  
8 going to give you the badges so you can get through  
9 security better, okay.

10 JUROR: Do we get a letter, too, for work?

11 THE COURT: You will get your letter after  
12 we are all through.

13 JUROR: Oh, okay.

14 THE COURT: It will cover everything --  
15 every day that you're here, all right.

16 JUROR: Okay.

17 THE COURT: All right.

18 COURT OFFICER: All rise for the Jury.

19 THE COURT: Young man, you can call your  
20 employer and tell 'em you're on one of the most important  
21 functions in the history of democracy. You're on jury  
22 duty, but you'll be there as soon as can you get through,  
23 okay.

24 JUROR: All right.

25 THE COURT: And you'll have a good lawsuit

1 if they give your job away because you can punish 'em for  
2 it. Okay. Take care. Have a nice evening. If you have  
3 anything in the jury room go in, make sure you get it.  
4 Leave your pads in the jury room. Don't take 'em home  
5 with you. Or you can leave 'em on your seat if you  
6 haven't put anything on 'em.

7 (1:55 P.M. the jury left the courtroom)

8 MS. LOZEN: Judge, there's one thing that  
9 I wanted to put on the record.

10 THE COURT: Yes, ma'am. All right. Miss  
11 Lozen.

12 MS. LOZEN: Judge, when the Clerk was  
13 reading the oath to the jury I thought I heard her say,  
14 that you will swear to deliberate this case, instead of  
15 listen to all of the testimony of the witnesses. So I  
16 just wasn't sure if she gave the proper oath when they  
17 swore the jury.

18 THE COURT: Well, if you remind me  
19 tomorrow morning I'll re-swear 'em.

20 MS. LOZEN: Yes, Judge.

21 THE COURT: I'll remind 'em tomorrow  
22 morning. I'll ask 'em, each of you do solemnly swear or  
23 affirm that in this action now before the Court you will  
24 justly decide the questions submitted to you; that unless  
25 you are discharged by the Court from further deliberation

1       you will render a true verdict; that you will render your  
2       verdict only on the evidence introduced and in accordance  
3       with the instructions of the Court, so help you God.  
4       That's the one.

5               MS. LOZEN: I'm sure I heard her mention  
6       the word deliberate this case and I thought that was the  
7       ending oath that the jury received at the end instead of  
8       the first oath that they receive.

9               THE COURT: Okay. Well, I'll check -- and  
10      you can check the record tomorrow. By tomorrow morning  
11      he'll have an answer for you.

12              MS. LOZEN: That's fine.

13              THE COURT: Okay. We stand adjourned 'til  
14      tomorrow morning at nine o'clock.

15              (2:00 P.M. proceedings concluded)

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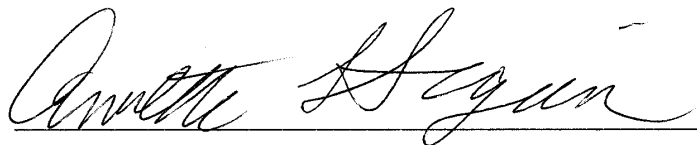
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C E R T I F I C A T E

STATE OF MICHIGAN) SS  
COUNTY OF WAYNE )

I certify that this transcript, consisting of 212 pages, is a complete, true and correct transcript, to the best of my ability, of the proceedings and testimony taken in this case by Brion Coury, reporter of record, Official Court Reporter, CSR/CSMR/CER-0038, on May 23, 2016.



BRION COURY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribe by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

Date: November 14, 2016

Trial 5-24-16, 330a

**Trial, 5-24-16**

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION  
THE PEOPLE OF THE STATE OF MICHIGAN,  
vs.  
ARTHUR LAROME JEMISON,  
Defendant.

File No. 15-010216

Jury Trial

**RECEIVED**

DEC 05 2016

PROCEEDINGS TAKEN in the  
above-entitled cause, before the HONORABLE LAWRENCE S.  
TALON, Judge of the 3rd Judicial Circuit Court, City  
of Detroit, at Frank Murphy Hall of Justice, Courtroom  
601, Detroit, Michigan, on May 24, 2016.

APPEARANCES:

LUTHER GLENN, Assistant Wayne County  
Prosecutor, appearing on behalf of the  
People.

LISA LOZEN, Attorney-at-Law, appearing  
on behalf of the Defendant.

\* \* \*

BRION CORY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

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ANNETTE L. SEGUIN, RPR/CSR-2184  
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May 24, 2016

Detroit, Michigan

9:30 A.M.

\* \* \*

THE COURT: Case Number 15-010216, the  
People of the State of Michigan versus Arthur Larome  
Jemison, here today for the purpose of a jury trial.  
Counsel.

MS. LOZEN: Good morning, your Honor.  
Lisa Lozen for the People.

MR. GLENN: Good morning, your Honor.  
Luther Glenn appearing on behalf of Mr. Jemison.

THE COURT: Okay.

MS. LOZEN: Judge, I did go upstairs and  
speak with the appellate department regarding the jury  
oath that we discussed yesterday.

THE COURT: Yeah.

MS. LOZEN: And they believe that the  
substance of it was the similar or the same as what is in  
the oath that is issued in the red book, the jury  
instruction book, that is issued by the ICLE and so that  
being said if you want to give the oath that's in the  
instruction, you may, but also we covered it with the  
oath that was given to the jury yesterday.

1 THE COURT: We'll stay with that one.

2 MS. LOZEN: Thank you, Judge.

3 THE COURT: Okay.

4 MS. LOZEN: And the other thing is just to  
5 give you a preview of what's coming forward, this is a  
6 witness list that I provided and I did want to endorse a  
7 few extra witnesses. There are two other witnesses that  
8 we were able to locate and there's one witness who's on  
9 call if necessary. So if you like I can give you their  
10 names.

11 THE COURT: What do you got to say about  
12 that, Mr. Glenn?

13 MR. GLENN: Well, firstly I'd like to  
14 note --

15 THE COURT: Have you been able to talk to  
16 these witnesses or anything like that?

17 MS. LOZEN: He has their -- either their  
18 reports or the -- police reports or, again, summaries of  
19 their testimony. They were on the witness list and so  
20 it's -- again, they are witnesses that he was aware of..  
21 He has summaries of what they'll testify to or their  
22 police reports or the lab reports or things of that  
23 nature, but he already has that information.

24 MR. GLENN: I'd just like to know what  
25 witnesses.

1 MS. LOZEN: Yes, Judge. Police Officer  
2 Clarence Bennett who was the desk officer who took the  
3 report from the victim of September 14th, of 1996.

4 MR. GLENN: Right.

5 MS. LOZEN: And also Sergeant David Dehem  
6 who Judge Viviano last week granted me permission to  
7 amend my witness list to add the Judge -- I'm sorry,  
8 Sergeant Dehem and so, again, I just didn't check the  
9 box. He would testify to chain and custody which, again,  
10 Mr. Glenn already has his report of his documents that he  
11 would testify to.

12 THE COURT: Okay.

13 MR. GLENN: There are a number of  
14 witnesses that could testify to chain and custody, so but  
15 that's not a issue, if she wants to add it so he can  
16 address some of the chain and custody, but he's not going  
17 to be the only person that's going to be able to testify  
18 to that.

19 THE COURT: Well, I'm not worried about  
20 that.

21 MR. GLENN: Okay.

22 THE COURT: Okay.

23 MR. GLENN: All right.

24 THE COURT: Okay. All right. No problem.  
25 You ready for the Jury?

1 MR. GLENN: Ready.  
2 THE COURT: Bring 'em out.  
3 COURT OFFICER: All rise for the Jury.  
4 (9:32 A.M. the jury was brought into  
5 The courtroom)  
6 COURT OFFICER: You may be seated.  
7 THE COURT: All right. You stipulate the  
8 jury is present and properly in their seats?  
9 MS. LOZEN: Yes, Judge.  
10 MR. GLENN: Yes, your Honor.  
11 THE COURT: Okay. Call your first  
12 witness.  
13 MS. LOZEN: The People call --  
14 THE COURT: Is there any reason for  
15 sequestration of the witnesses or have you all taken care  
16 of that?  
17 MR. GLENN: I would ask for a  
18 sequestration.  
19 THE COURT: Okay.  
20 MS. LOZEN: And I would agree with that,  
21 Judge.  
22 THE COURT: All right. Let's proceed.  
23 MS. LOZEN: Yes, Judge.  
24 THE COURT: Call your first witness.  
25 MS. LOZEN: The People call Doctor David

1 Dehem -- I'm sorry, Doctor David (ph) Kerschner.  
2 \* \* \*  
3 D O C T O R M A R K K E R S C H N E R  
4 having been first duly sworn in and by the Court at 9:33  
5 A.M., was examined and testified upon his oath as  
6 follows:  
7 THE COURT: Do you swear the testimony  
8 you're about to give before this Court shall be the truth  
9 and nothing but the truth, so help you God?  
10 THE WITNESS: Yes, I do.  
11 THE COURT: Give the Court Reporter your  
12 name and spell it for him.  
13 THE WITNESS: Mark Kerschner, M-a-r-k,  
14 K-e-r-s-c-h-n-e-r.  
15 THE COURT: You may proceed, counsel.  
16 MS. LOZEN: Thank you, Judge.  
17 DIRECT EXAMINATION  
18 BY MS. LOZEN:  
19 Q. Good morning, sir.  
20 A. Good morning.  
21 Q. Would you please state your name for the record?  
22 A. Sure. Mark Kerschner.  
23 Q. And how are you employed?  
24 A. I'm an emergency physician with a corporation called  
25 Southwestern Michigan Emergency Services.

1 Q. Okay. And what's your profession?

2 A. Emergency physician.

3 Q. Okay.

4 And to become an emergency physician can  
5 you tell us about your education?

6 A. I went to undergrad at the University of Iowa. I  
7 completed medical school at the University of Illinois,  
8 in Chicago and I did my residency in emergency medicine  
9 at the Detroit Medical Center.

10 Q. Okay.

11 And then are you Board certified in any  
12 particular subject or topic?

13 A. I'm Board certified in emergency medicine.

14 Q. Thank you.

15 And do you have any licenses in the state  
16 of Michigan?

17 A. I'm licensed as a physician in the state of Michigan.

18 Q. And have you been consistently licensed?

19 A. Yes.

20 Q. And any discipline or any issues with that?

21 A. No.

22 Q. What about your employment. Have you been consistently  
23 employed?

24 A. Yes.

25 Q. Where are you presently employed?



1 A. I'm presently employed -- I work for a corporation or am  
2 a partner in a corporation that supplies emergency  
3 physicians to Bronson Methodist Hospital as well as  
4 Bronson Battle Creek Hospital and Bronson Lakeview  
5 Hospital on the west side of the state.

6 Q. Okay. So you said that's in the Battle Creek area?

7 A. Kalamazoo, Battle Creek.

8 Q. Thank you.

9 And can you tell us were you working for  
10 the Detroit Receiving Hospital in September of 1996?

11 A. Yes, I was.

12 Q. And what were you doing in September of 1996?

13 A. I was completing my residency.

14 MS. LOZEN: And, Judge, at this time I'll  
15 turn the witness over to voir dire. I'd like to offer  
16 him as an expert in emergency medicine.

17 MR. GLENN: Doctor --

18 THE COURT: Pull the mike around to you,  
19 Doctor.

20 MR. GLENN: Looking at your CV you were  
21 doing your residency back in 1996, is that correct?

22 THE WITNESS: That's correct.

23 MR. GLENN: And so would it be correct in  
24 saying that you weren't Board certified in any discipline  
25 at that time?

1 THE WITNESS: That is correct.

2 MR. GLENN: Okay. Now, I see that you had  
3 graduated from medical school in June of 1994 from the  
4 University of Illinois, Chicago, right?

5 THE WITNESS: That is correct.

6 MR. GLENN: Now, while you were doing your  
7 residency were you working under the supervision of a  
8 supervisory position?

9 THE WITNESS: Yes.

10 MR. GLENN: All right. And who was that?

11 THE WITNESS: Each shift would be  
12 different so in the emergency department we would be  
13 working a shift and we would have an attending physician  
14 who was assigned with us and was present for those cases,  
15 but every day it might be a different physician.

16 MR. GLENN: Okay. And so going back on  
17 September the 14th, 1996, do you have any idea who your  
18 supervising physician would be that --

19 THE WITNESS: No.

20 MR. GLENN: No? Okay. I don't have any  
21 other questions, your Honor. Thank you.

22 THE COURT: Okay. Do you move to have him  
23 admitted as an expert?

24 MS. LOZEN: Expert in emergency medicine,  
25 Judge.

1 THE COURT: Counsel?

2 MR. GLENN: Well, I would object.

3 THE COURT: On the basis of?

4 MR. GLENN: On the basis of he was not

5 Board certified --

6 THE COURT: That's not the test, though,

7 counsel.

8 MR. GLENN: Well, I missed then -- if he's

9 going to give opinions about what he did back in 1996 he

10 would be because if he's going back to look at his notes

11 he wasn't an expert at that time.

12 THE COURT: The Court will accept him as

13 an expert.

14 MS. LOZEN: Thank you, Judge.

15 BY MS. LOZEN (Continuing):

16 Q. So, Doctor, I'd like to address your attention to the

17 date of September 14th, of 1996. Were you working at the

18 Detroit Receiving Hospital on that date?

19 A. I don't have any independent recollection. Based on the

20 records you showed me it would appear that I was.

21 Q. Okay. Did I provide with you some medical records?

22 A. Yes.

23 Q. And you've had a chance to review those?

24 A. Yes.

25 Q. And do those medical records indicate that you were

1 working on September 14th, '96?

2 A. Yes.

3 MS. LOZEN: May I approach the witness,  
4 Judge?

5 THE COURT: Sure.

6 BY MS. LOZEN (Continuing):

7 Q. Doctor, I'm showing you what's been marked as People's  
8 Proposed Exhibit Number One. Can you take a look at that  
9 and tell us what it is?

10 A. This looks like a face sheet from Detroit Receiving  
11 Hospital and on the date, September 14th and the second  
12 sheet looks like part of a sexual assault form.

13 Q. And is your name listed on that form?

14 A. Yes.

15 Q. And is there a victim by the name of Talisha Dowe on that  
16 form, or Talisha Sams?

17 A. Yes, Talisha Sams.

18 Q. Okay.

19 MS. LOZEN: And, Judge, I'd move to admit  
20 People's Proposed Exhibit Number One.

21 THE COURT: Counsel.

22 MR. GLENN: No objection.

23 THE COURT: It's admitted.

24 BY MS. LOZEN (Continuing):

25 Q. Doctor, I'd like to ask you, on that form that says

1 admission marker, is there a time, a chart time on there?

2 A. It says the triage time, seven twenty-six P.M.

3 Q. Thank you. And does it, again, say the patient's name?

4 A. Yes, it does.

5 Q. And what's the patient's name on there?

6 A. Last name Sams, first name Talisha.

7 Q. And, again, you told us that you were a resident at the  
8 time and you were being supervised by another doctor,  
9 correct?

10 A. Correct.

11 Q. Okay.

12 And then, Doctor, I'd like to ask you,  
13 you -- does this, in fact, show you had some direct care  
14 of Talisha Sams?

15 A. Yes, it does.

16 Q. Okay.

17 And when a patient comes into the E.R.  
18 generally speaking what happens when a patient comes into  
19 the E.R.?

20 A. Generally a patient if they're coming in -- I mean, they  
21 can either come in ambulatory or on their own or come in  
22 via ambulance. Then there's triage and then brought back  
23 to a room or -- I don't know what Detroit Receiving looks  
24 like now, but it's basically a larger area with curtains  
25 and the patient is then placed in a bed.

1                   A chart is made and then we go and talk to  
2                   the patient and find out why they were there and take a  
3                   history and physical exam and then come up with a  
4                   treatment.

5   Q.     Okay.

6                   And in this particular case do you know  
7                   why Talisha Sams was at the E.R.? What was her chief  
8                   complaint?

9   A.     Specifically I don't see a chief complaint. I see the  
10           final impression, but there's no documentation as to what  
11           the chief complaint is.

12   Q.     Okay.

13                   Now the final impression, what was the  
14                   final impression?

15   A.     First final impression was alleged sexual assault.  
16           Second was a periorbital contusions and third was  
17           contusions.

18   Q.     Okay.

19                   And then as it relates to the sexual  
20                   assault form that is page two, does it indicate on there  
21                   again the victim's name, Talisha Sams?

22   A.     Yes, it does.

23   Q.     And does it indicate -- I'd like to just take you through  
24           this form. The form --

25                   MS. LOZEN: May I publish it to the jury,

1 Judge?

2 THE COURT: You can if you want to.

3 BY MS. LOZEN (Continuing):

4 Q. Doctor, does it indicate to us the date of the last  
5 menstrual period?

6 A. Yes, it does.

7 Q. And what does the date give?

8 A. September 11th, 1996.

9 Q. And why would that be important to know?

10 A. It let's you know if like if the likelihood if it would  
11 be more likely or less likely to be pregnant.

12 Q. Okay.

13 And then does it indicate the date of last  
14 coitus?

15 A. Yes.

16 Q. Now, in your experience with the general population how  
17 many people know what the term coitus means or the  
18 medical term coitus means?

19 A. Probably not most.

20 Q. Okay.

21 So what is the date of last coitus for  
22 this particular --

23 A. June, '96.

24 Q. Okay.

25 So it's not surprising to you if the

- 1 patient doesn't know what the term coitus means?
- 2 A. Correct.
- 3 Q. Unless somebody were to explain it to them?
- 4 A. Correct.
- 5 Q. Okay.
- 6 Now, did Miss Sams describe the date of
- 7 the assault and the time of the assault?
- 8 A. It looks like it states the date of the assault 9-14-96
- 9 and time eight A.M.
- 10 Q. Okay.
- 11 MS. LOZEN: Can everyone see?
- 12 BY MS. LOZEN (Continuing):
- 13 Q. And then can you tell me again does Miss Sams describe
- 14 the sexual acts that occurred?
- 15 A. It doesn't go into specific details, but it does state
- 16 there was oral and vaginal penetration.
- 17 Q. Okay. And this would be during the sexual assault?
- 18 A. Correct.
- 19 Q. And then does Miss Sams describe that there was any
- 20 cleaning or voiding?
- 21 A. Yes.
- 22 Q. And can you tell us what is marked?
- 23 A. Cleaning --
- 24 Q. But it doesn't describe any further what cleaning means?
- 25 A. It does not.



1 Q. Okay.

2 And does it indicate whether Miss Sams, in  
3 fact, changed her clothes?

4 A. Yes, it does.

5 Q. And then do you -- but then, again, it doesn't describe  
6 as far as what clothing she changed or anything? It  
7 just --

8 A. Correct.

9 Q. Okay.

10 And then now can you tell us, it indicates  
11 that there are symptoms of -- related to the complainant.  
12 Can you tell us what is documented there?

13 A. It states, left eye bruised and swollen after being hit  
14 with fist by the assailant.

15 Q. Okay.

16 And does it describe the appearance of her  
17 clothing?

18 A. It says, denies damage.

19 Q. Now, can you tell us what her emotional state was?

20 A. And it says nervous, cooperative and fidgety.

21 Q. And now victims of a sexual assault generally speaking,  
22 can you tell us what types of emotion you've seen from  
23 victims of a sexual assault?

24 A. Oh, you see everything. I mean, some are very withdrawn.  
25 Some are nervous. Some are crying. Some are angry.

1           Some want to talk about everything. Some want to talk  
2           about nothing.

3   Q.     Okay.

4                         So it's fair to say that these victims --  
5           no one reacts the same way?

6   A.     Correct.

7   Q.     And so you could see a wide range of emotions from these  
8           victims?

9   A.     Correct.

10   Q.    And so when Miss Sams is described as being nervous,  
11          cooperative and fidgety, is that abnormal?

12   A.     No.

13   Q.     Or is it normal?

14   A.     It's -- there is no normal.

15   Q.     There is no normal. Thank you.

16                         But she was within the range of emotion  
17          you could have seen from a sexual assault victim?

18   A.     Yes.

19   Q.     Now, it indicates that her -- she had no previous medical  
20          or surgical history?

21   A.     Correct.

22   Q.     Okay.

23                         And can you tell us once a patient history  
24          is taken do you actually then do a physical exam?

25   A.     Yes.

1 Q. And when the physical exam is done was body trauma found  
2 on Miss Sams?

3 A. It appeared, yes.

4 Q. Okay.

5 And that's the trauma you previous  
6 described as being the eyes swollen?

7 A. Correct.

8 Q. Okay.

9 Now, can you tell us to do a genital exam  
10 is a genital exam done for a rape kit?

11 A. Yes.

12 Q. Okay.

13 And when a patient is going to -- when you  
14 have to do a genital exam how is the patient positioned?

15 A. Normally they're positioned on their back and their legs  
16 up in what we call stirrups to allow the complete  
17 examination.

18 Q. Okay.

19 Do you use any tools or any kind of  
20 medical implements to do this?

21 A. Well, we would use a speculum.

22 Q. Okay. And is a speculum -- describe it for us?

23 A. A speculum is either plastic or metal, is inserted into  
24 the vagina to open up the vagina to be able to look  
25 inside.

1 Q. Now, when you're performing a rape kit and you're using a  
2 speculate do you -- are you using any kind of  
3 lubrication?

4 A. I don't recall what our standard is. Sometimes we would  
5 use a non-bactericidal lubricant if we did so something  
6 that wouldn't kill any bacteria or anything else that  
7 would be found.

8 Q. Okay. But you can't recall on this particular --

9 A. No, I do not recall.

10 Q. Okay.

11 Now, when you were doing the genital  
12 examination was any trauma noted to Miss Sams genital  
13 area?

14 A. No.

15 Q. Okay.

16 And when the patient reports vaginal  
17 penetration do you expect to see injury to her vagina?

18 A. Not always, no.

19 Q. Or even to her genitals?

20 A. No.

21 Q. Okay.

22 And is there a reason why you would not  
23 necessarily expect to see injury?

24 A. Well, if you see injury it let's you know that something  
25 did occur, but no injury does not guarantee that there's

1 not been any penetration or any assault.

2 Q. So could somebody have consensual sex and have injury?

3 A. Yes.

4 Q. And could somebody also be sexually assaulted and still

5 have injury?

6 A. Yes.

7 Q. And on the flip side you could also have consensual sex

8 and no injury?

9 A. Correct.

10 Q. And also be sexually assaulted and no injury?

11 A. Correct.

12 Q. So you can't tell us just by looking at her vagina

13 whether she was sexually assaulted?

14 A. Correct.

15 Q. Thank you.

16 Now, did she -- just going through your

17 chart was any vaginal trauma or discharge noted?

18 A. It would appear, no.

19 Q. And any oral trauma?

20 A. No.

21 Q. And then any debris was noted?

22 A. No.

23 Q. Now, then do you then, when you're performing the rape

24 kit, actually take any swabs of the genitals of Miss

25 Sams?

1 A. Yes, normally -- and it would appear here that we did  
2 vaginal swabs, cervical swabs and oral swabs.

3 Q. Okay.

4 And for a patient who's reporting oral  
5 penetration was that why you would take oral swabs?

6 A. Yes.

7 Q. And so if a patient did not report oral penetration would  
8 you take oral swabs?

9 A. Probably not.

10 Q. Okay.

11 Now, in this particular instance again you  
12 noted vaginal and cervical. Can you tell us where the  
13 cervix is in relation to the vagina?

14 A. Sure.

15 The vagina is basically a long tube and at  
16 the end of the tube is the cervix which is really part of  
17 the uterus so the vaginal swab would be a swab on the  
18 walls or the sides of the vagina and the cervical swab  
19 would be a swab in the cervix.

20 Q. So the cervix like the back of the vagina?

21 A. Yes.

22 Q. And can you tell us when you actually took a swab what  
23 kind of medical tool are you using to take these swabs?

24 A. A Q-tip, a cotton swab, cotton Q-tip.

25 Q. Okay.

1                                   And the Q-tips, they came out of the rape  
2                                   kit?  
3   A.     Correct.  
4   Q.     And were they only used once and not reused?  
5   A.     Correct.  
6   Q.     Now, to take a vaginal swab and cervical swab do you know  
7                                   if you used two separate swabs or if you used one swab?  
8   A.     Routinely they would be separate swabs.  
9   Q.     Okay. But do you know in this particular instance?  
10  A.     I do not, no.  
11  Q.     Okay.  
12                                   And then is it checked that there's also  
13                                   combings of her public hair --  
14  A.     Yes.  
15  Q.     -- were taken? And to do that how is that done?  
16  A.     You take a small piece of paper and a small comb and you  
17                                   would brush through the pubic hairs and then any material  
18                                   that came off of that or possibly some hairs then would  
19                                   be collected into an envelope and then be kept with the  
20                                   kit.  
21  Q.     Thank you.  
22                                   And then a saliva sample and a blood  
23                                   sample, were those taken?  
24  A.     I believe so.  
25  Q.     And, again, is that just routine, part of the rape kit?

1 A. Yes.

2 Q. Then can you tell us if something called genital gauze  
3 would that have been used during a rape kit?

4 A. It might have been. I don't have any specific  
5 recollection.

6 Q. Okay.

7 But would that be something that if you  
8 used the genital gauze what would you use it for?

9 A. You would probably swab or wipe the external genitalia.

10 Q. And then would that be included in the rape kit?

11 A. Yes.

12 Q. Now, can you tell us was any medication provided to Miss  
13 Sams?

14 A. Yes.

15 Q. And what was given to her?

16 A. She was given it looks like three medications, Cipro and  
17 Doxycycline are prophylactic medications to prevent or  
18 decrease the risk of some sexually transmitted diseases  
19 and then Orvarol (ph) which is a high dose -- would have  
20 been a high dose birth control pill to prevent pregnancy.

21 Q. What does Orvarol (ph) do to a woman's system?

22 A. It basically sort of acts like a high dose of birth  
23 control so, therefore, if sperm and egg get fertilized  
24 then it will prevent the implantation.

25 Q. Okay. Does it disrupt a woman's period essentially?



- 1 A. Yes.
- 2 Q. And does it cause a period to occur?
- 3 A. Yes.
- 4 Q. Was Miss Sams given any pregnancy counseling or emotional
- 5 counseling?
- 6 A. Yes.
- 7 Q. Now, do you know are police notified when an individual
- 8 comes to the hospital for a rape kit?
- 9 A. Yes.
- 10 Q. And do you know if that occurred in this particular case?
- 11 A. I do not recall. We have a -- I mean, a routine process
- 12 would be that the -- the sexual assault kit would be
- 13 completed by the physician and the nurse who probably did
- 14 it together. After all the paperwork was filled out it
- 15 would be sealed and signed for the chain of custody and
- 16 then it would normally be given to the police. Again, I
- 17 don't recall the specifics, but we did have a police
- 18 precinct on the premises of the hospital, so.
- 19 Q. Okay.
- 20 And you indicated that once you collected
- 21 all the swabs or the samples during the physical
- 22 examination they would be then sealed into a rape kit?
- 23 A. Correct.
- 24 Q. And would it normally be sealed with tape?
- 25 A. A sticker.

1 Q. A sticker?

2 Okay. Now, Doctor, prior to meeting Miss  
3 Sams at the E.R. on this particular day had you met her  
4 before?

5 A. I do not believe so.

6 Q. And have you met her afterwards?

7 A. I do not believe so.

8 Q. So do you have an independent recollection of the events  
9 or are you just testifying off of the medical records?

10 A. Just off the medical records.

11 Q. So no independent recollection?

12 A. Correct.

13 Q. And have you ever met somebody by the name of Arthur  
14 Jemison?

15 A. No.

16 Q. And so you don't know any of the parties in this case?

17 A. That is correct.

18 Q. Okay.

19 And, Doctor, just to confirm, on the form,  
20 this right here, is your signature and your name?

21 A. Yes.

22 Q. Did the chart also indicate -- can you tell us, it says,  
23 a wet mount for sperm?

24 A. Yes.

25 Q. And it says, no sperm seen on wet mount?

1 A. Yes.

2 Q. Can you describe for us what that means?

3 A. That would mean you would take one of the swabs, whether  
4 it was the vaginal swab or the cervix swab, and sort of  
5 rub it on the slide and then look at it under a  
6 microscope to look for motile sperm.

7 Q. And in this particular instance did you see any sperm?

8 A. No.

9 Q. Thank you.

10 But you don't know -- at your point you're  
11 not performing any DNA analysis. You don't know if there  
12 was any DNA actually collected on that swab?

13 A. Correct.

14 Q. Thank you.

15 MS. LOZEN: Nothing further, Judge.

16 THE COURT: You may cross-examine, Mr.  
17 Glenn, if you so desire.

18 MR. GLENN: Thank you.

19 CROSS EXAMINATION

20 BY MR. GLENN:

21 Q. Good morning, Doctor.

22 A. Good morning.

23 Q. Now, going over the placement of the swabs and the rape  
24 kit, now, did you actually swab the patient?

25 A. Routinely it would be the physician would swab the

1 patient.

2 Q. All right.

3 I'm asking you, do you remember whether or

4 not you swabbed this patient or not?

5 A. I don't have an independent recollection.

6 Q. All right. Now, would that be on your report?

7 A. If I --

8 Q. Yes, if you did?

9 A. It would not specifically be on the report, no.

10 Q. And is it uncommon for a nurse to take a swab or to

11 administer the rape kit?

12 A. It was our practice it was a joint -- the swab and the

13 pelvic exam were routinely done by the physician. The

14 nurses did not do the internal exam.

15 Q. All right. I'm talking about the swabbing, not the exam?

16 A. Right. The swabbing is part of the exam.

17 Q. All right.

18 Now, the rape kit that was administered

19 here, does it have a number or an identifying tag,

20 something that you would have had like a serial number?

21 A. I do not recall.

22 Q. All right. Would that be on your notes at all?

23 A. I do not see it on these notes.

24 Q. Okay.

25 And the swabs that you were taking, were

1           they put inside of a sealed container?

2   A.     The swabs in the slides would be -- the swabs would  
3           normally go in an envelope that was sealed. It'd also do  
4           slides and those would go into slide holders that would  
5           be sealed and those would then be put into a box that  
6           would then be sealed as well.

7   Q.     All right.

8                         Now, when these items were placed into the  
9           envelopes and the tubes, the containers, is there a  
10          signature or date that's signed on them?

11  A.     I do not recall.

12  Q.     All right.

13                        Well, when they're placed in a packet is  
14          there signatures?

15  A.     I believe that would be routine, but again, I do not  
16          recall specifically.

17  Q.     So you don't have any idea of what would identify the  
18          rape kit that you administered on this day?

19  A.     Correct.

20  Q.     Okay.

21                        Do you have any recollection or do you  
22          have any notation of who the rape kit was given to?

23  A.     I do not.

24  Q.     Okay.

25                        Now, I believe earlier you had indicated

1           that there was a -- some questions that were given about  
2           the last time of menstruation cycle?

3   A.     Uh-huh.

4   Q.     Okay. And coitus is, what, the last time you had sex?

5   A.     Correct.

6   Q.     Okay.

7                         Did you ask her, when was the last time  
8           you had sex or did you use the medical phrase?

9   A.     Again, I can't give you the exact language. It would be  
10          routine to ask the patient the last time that they had  
11          consensual intercourse or the last time they had sex.

12  Q.     Okay.

13                        And the date that was given to you would  
14          have been 6-96?

15  A.     Correct.

16  Q.     Okay.

17                        At any point in time would the patient --  
18          if the patient had indicated they didn't understand the  
19          question and know what was going on or what you were  
20          asking would you clarify it for them?

21  A.     I believe I would.

22  Q.     Okay.

23                        And on your notation right here, when is  
24          the last time she had consensual sex, being June of 1996,  
25          is it your recollection or understanding that she

1           understood what you were asking?

2   A.     Yes.

3   Q.     Now, you also indicated that there was left eye bruising  
4           and swollen?

5   A.     Correct.

6   Q.     And were any photographs taken in place at the rape kit  
7           regarding injury?

8   A.     We were not doing that at that time.

9   Q.     Okay.

10   A.    That is, the rape kit is just the collection of those  
11          samples.

12   Q.     Okay.

13                         All right.   So procedure might have  
14          changed over time?

15   A.     Correct.

16   Q.     Any clothing collected from this lady?

17   A.     Again, I cannot tell you whether it was or was not.

18   Q.     Okay.

19                         Now, on the genital examination you were  
20          asked whether or not there were any visible signs of  
21          trauma, do you remember?

22   A.     Yes.   Correct.

23   Q.     And when you're asked that question what would you be  
24          looking for?

25   A.     You would be looking for bruising.   You'd be looking for

1           bleeding. You'd be -- swelling, abrasions, lacerations.  
2   Q.       All right.  
3                        So bruising, swelling, cuts, las -- well,  
4           lacerations are cuts?  
5   A.       Correct.  
6   Q.       Okay. And you didn't see any of that?  
7   A.       Correct.  
8   Q.       And you also indicated there was some type of combing?  
9   A.       Correct.  
10   Q.       Okay. And that was placed in the rape kit as well?  
11   A.       Correct.  
12   Q.       Okay.  
13                       Now, when you were asked the question of  
14           whether or not there was any wet sperm noted you put, no,  
15           right?  
16   A.       Correct.  
17   Q.       Was there any dry sperm visible?  
18   A.       I'm sorry. So it says, no sperm seen on wet mount. So  
19           what that wet mount is basically taking that swab and  
20           putting it on the slide and then maybe a drop of saline  
21           on it and then putting a slide cover over it. So there  
22           was no sperm seen so it wasn't seen mobile or nonmobile.  
23   Q.       Okay.  
24                       So when -- from what I'm understanding  
25           here, the sample that you took, you didn't see any



1 visible sperm at all?

2 A. Correct.

3 Q. Okay.

4 If you had saw anything that looked like

5 it was sperm would you have swabbed that area?

6 A. Well, it was -- had already been swabbed.

7 Q. Okay.

8 Now, going back to the rape kit, were you

9 working in conjunction with a nurse at that time?

10 A. It would be the routine to have been.

11 Q. All right.

12 Would that be on your report? That's what

13 I'm asking.

14 A. Well, again, what the -- there was a -- the normal

15 routine would be that there would be a dictated history

16 and physical and report that would contain that

17 information. That would be part of the medical record

18 which I guess is not in existence anymore, so.

19 Q. Okay. So after you did this examination you dictated --

20 A. Correct.

21 Q. -- your examination, your findings?

22 A. Correct.

23 Q. Okay.

24 And that is not a part of this two page

25 report?

1 A. Correct.

2 Q. Okay.

3 So there's another report that's out there

4 that you don't have?

5 A. Well, I believe that is probably -- I don't know what the

6 Detroit Medical Center has done with records from 1996.

7 Q. Okay.

8 All right. The only thing I would ask you

9 is you made the dictation on this case?

10 A. Correct.

11 Q. Okay. And you don't see it now?

12 A. Correct. It would be on the face sheet there at the

13 bottom it says, dictation time, and there's a little plus

14 and a circle around it which would probably indicate that

15 I had completed my dictation.

16 Q. You're talking about page one?

17 A. Correct. Page one, about a inch from the bottom.

18 Q. This will be the first page of the report, right?

19 A. Correct.

20 THE COURT: Mr. Glenn, juror number

21 fourteen can't see.

22 MR. GLENN: I'll get out of the way as

23 soon as I -- it pops up, okay.

24 THE COURT: Okay.

25

1 BY MR. GLENN (Continuing):

2 Q. Right there?

3 A. There you go, right there at the bottom of the screen.

4 Right there.

5 Q. All right.

6 Now you indicated there would be a time.

7 I don't see a time.

8 A. No, it says dictation time, but the marking plus would  
9 indicate that's what I would have done to indicate that I  
10 completed the dictation.

11 Q. Okay.

12 MR. GLENN: That's all I have. Thank you.

13 THE COURT: All right. Any redirect?

14 MS. LOZEN: Briefly, Judge.

15 THE COURT: Only as to what he brought  
16 out.

17 MS. LOZEN: Yes, Judge.

18 REDIRECT EXAMINATION

19 BY MS. LOZEN:

20 Q. Defense counsel was asking you about marks that were put  
21 on the kit. Does this medical record state -- or there's  
22 an impression on this document that shows the victim's  
23 name and date of birth?

24 A. On the first page?

25 Q. On both pages?

1 A. Ah, I see an impression on the final impression on the  
2 first page. On the second page I'm not sure what you're  
3 referring to.

4 Q. Sir, in the --

5 THE COURT: Why don't you just show it to  
6 him?

7 MS. LOZEN: Yes, Judge.

8 BY MS. LOZEN (Continuing):

9 Q. Doctor, right here, where I'm pointing to on the sexual  
10 assault form --

11 A. Uh-huh.

12 Q. -- on page two, does it have the victim's name and date  
13 of birth?

14 A. Yes.

15 Q. And these numbers that are up here as well, what would  
16 those numbers have been?

17 A. Probably numerical record numbers.

18 Q. Okay. And does it also give September 14th, of '96 --

19 A. Yes.

20 Q. -- as the date she was seen?

21 A. Yes.

22 Q. Okay.

23 And then on the admission record it also  
24 does give the patient's date of birth and her age?

25 A. Yes.

1 Q. And her name on there as well?

2 A. Correct.

3 Q. And, again, the medical record number is on the top --

4 A. Correct.

5 Q. -- top corner? And so this is how the hospital

6 tracks --

7 A. Correct.

8 Q. -- the victims and the paperwork, is that correct?

9 A. Correct.

10 Q. And as far as your dictation is concerned your

11 responsibility was to dictate meaning speak into a

12 microphone, if you will?

13 A. Correct.

14 Q. And then someone else later will produce the paperwork

15 for you?

16 A. Correct.

17 Q. And do you know how long Detroit Receiving Hospital keeps

18 records?

19 A. I do not.

20 Q. And is that your responsibility to keep these records?

21 A. No, it is not.

22 Q. And just as the victim's medical record number and name

23 is put on the forms of the medical records is the

24 victim's name and patient information also contained on

25 the rape kits itself?

1 A. I do not know.

2 Q. You don't know? But would it be practice to, in fact,  
3 put the victim's name on there?

4 A. Yes. Well, I believe it would be practice to be able to  
5 identify the sexual assault kit back to the patient and  
6 that patient encounter.

7 Q. Thank you.

8 And then once it's turned over to the  
9 police you don't know what happens to it after that?

10 A. Correct.

11 Q. Thank you.

12 THE COURT: You may step down. Thank you.

13 MS. LOZEN: Nothing further, Judge. May  
14 he be excused?

15 THE COURT: It's up to you if you don't  
16 need him no more.

17 MS. LOZEN: Thank you, Judge.

18 THE COURT: Thank you, Doctor.

19 THE WITNESS: Thank you.

20 (10:05 A.M. witness excused)

21 THE COURT: Call your next witness.

22 MS. LOZEN: Thank you. Judge, the People  
23 now call Talisha Sams Dowe.

24 THE COURT: Okay.

25 COURT CLERK: Raise your right hand for

1 the Judge.

2 \* \* \*

3 T A L I S H A S A M S D O W E

4 having been first duly sworn in and by the Court at 10:06

5 A.M., was examined and testified upon her oath as

6 follows:

7 THE COURT: Do you swear the testimony

8 you're about to give before this Court shall be the truth

9 and nothing but the truth, so help you God?

10 THE WITNESS: Yes.

11 THE COURT: Give him your name and spell

12 it for him and take the stand.

13 COURT CLERK: Spell your name for the

14 Court Reporter.

15 THE COURT: Spell your name for the Court

16 Reporter.

17 THE WITNESS: T-a-l-i-s-h-a D-o-w-e.

18 THE COURT: Go ahead, counsel.

19 MS. LOZEN: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MS. LOZEN:

22 Q. Good morning.

23 A. Good morning.

24 Q. Would you state your name for the record?

25 A. Talisha Dowe.

- 1 Q. And, Miss Dowe, was there a point you were known as  
2 Talisha Sams?
- 3 A. Yes.
- 4 Q. And why did you change your name to Talisha Dowe?
- 5 A. I got married.
- 6 Q. Thank you. And Miss Sams -- do you prefer Miss Dowe?
- 7 A. Miss Dowe.
- 8 Q. Miss Dowe, would you tell us how old you are today?
- 9 A. 37.
- 10 Q. And, Miss Dowe, in September of 1996 how old were you?
- 11 A. Eighteen.
- 12 Q. In September of 1996 where were you living at?
- 13 A. Sheridan.
- 14 Q. Is that a street in the city of Detroit?
- 15 A. Yes.
- 16 Q. Who were you living with?
- 17 A. My grandmother and my siblings.
- 18 Q. And would this be your grandmother's house you were  
19 living in?
- 20 A. Yes.
- 21 Q. What side -- or what part of the city were you living in?
- 22 A. East side of Detroit.
- 23 Q. Thank you. And in September of 1996 were you working?
- 24 A. Yes.
- 25 Q. Where were you working at?



- 1 A. The Outcast Motorcycle Club.
- 2 Q. Can you tell us what you did at the Outcast Motorcycle
- 3 Club?
- 4 A. Dancer.
- 5 Q. And can you tell us what that meant or what did you do?
- 6 A. Exotic dancer.
- 7 Q. And, again, an exotic dancer, describe that for us?
- 8 A. We would -- I would dance for people.
- 9 Q. Okay. Was this a nude dancing or --
- 10 A. No, I was not nude.
- 11 Q. Were you allowed to be nude?
- 12 A. No.
- 13 Q. Thank you.
- 14 And when you say a motorcycle club, can
- 15 you describe what a motorcycle club is?
- 16 A. It's a organization where a lot of the members have
- 17 motorcycles. They're affiliated with other motorcycle
- 18 clubs.
- 19 Q. Okay. Where was Outcast Motorcycle Club located at?
- 20 A. 14th and Grand River.
- 21 Q. And is that in the city of Detroit?
- 22 A. Yes, it is.
- 23 Q. What part of the city?
- 24 A. West side.
- 25 Q. Okay.

- 1 And when you worked at this motorcycle  
2 club what was your schedule like?
- 3 A. Two A.M. to five A.M.
- 4 Q. So was this an after hours club?
- 5 A. Yes, it was.
- 6 Q. And when you were there did you receive a paycheck or how  
7 would you get paid?
- 8 A. I would dance for tips.
- 9 Q. And on this particular date of September 14th, of 1996  
10 were you at the motorcycle club?
- 11 A. Yes.
- 12 Q. And when you were there how did you get to work?
- 13 A. Cab.
- 14 Q. Did you go with anyone else?
- 15 A. Yes.
- 16 Q. Who else was in this cab?
- 17 A. Ebony, LaChelle and Shonta.
- 18 Q. Okay. And were these ladies friends of yours?
- 19 A. Yes.
- 20 Q. Were they also at the club?
- 21 A. Yes.
- 22 Q. Are dancers at the club?
- 23 A. Yes.
- 24 Q. Did you have a car at the time?
- 25 A. No.

- 1 Q. So did you -- to get from the east side of Detroit to the  
2 west side of Detroit is that why you took the cab?
- 3 A. Yes.
- 4 Q. Thank you. And was this somewhat of a routine for you --
- 5 A. Yes.
- 6 Q. -- to take the cab?
- 7 A. Yes.
- 8 Q. Now, on September 14th, of 1996 did something happen on  
9 that date that brings you to court today?
- 10 A. Yes.
- 11 Q. When you were -- were you, in fact, working on that date?
- 12 A. Yes.
- 13 Q. And on September 14th when you were at the club did you  
14 run into somebody or meet somebody?
- 15 A. Yes.
- 16 Q. Who did you meet?
- 17 A. I met -- ran into Delano.
- 18 Q. Now, when you said you ran into him had you ever met him  
19 before?
- 20 A. No, he would frequent my neighborhood.
- 21 Q. Your neighborhood on the east side?
- 22 A. Yes.
- 23 Q. And how did you know he frequented your neighborhood on  
24 the east side?
- 25 A. I would see him in the neighborhood.

1 Q. Would you see him walking or in a car or how would you  
2 see him?

3 A. I would see him, he would drive through the neighborhood  
4 or he would be standing there talking to other males in  
5 the neighborhood.

6 Q. But prior to this date had you ever met him or been  
7 introduced to him?

8 A. No.

9 Q. Or had you ever spoken to him?

10 A. No.

11 Q. Did he have a car?

12 A. Yes.

13 Q. Was there anything distinctive about this car?

14 A. It was a '88 Monte Carlo maroon color. It had gold rims  
15 on it. I know the steering wheel was detachable.

16 Q. So this is a pretty distinguishable car?

17 A. Yes.

18 Q. Pretty unique in that regard?

19 A. Yes.

20 Q. And on this night you saw Delano at the club.

21 Approximately how old was Delano?

22 A. Twenty.

23 Q. Okay.

24 And once you saw him is this the first  
25 time you actually spoke to him?

- 1 A. Yes.
- 2 Q. And do you and him have a conversation?
- 3 A. Yes.
- 4 Q. And what happens after you -- well, while you are having  
5 this conversation?
- 6 A. Um, he asked me for a dance. I danced for him. After  
7 the dance he asked me if I wanted to go and get something  
8 to eat and I agree.
- 9 Q. Okay.
- 10 While you're at the club you said you  
11 worked from two to five and you said during this time you  
12 did, in fact, dance for him?
- 13 A. Yes.
- 14 Q. Did you also have just like conversation with him?
- 15 A. Yes.
- 16 Q. And this is while you're at the club?
- 17 A. Yes.
- 18 Q. And you indicated you did, in fact, see him in the  
19 neighborhood?
- 20 A. Yes.
- 21 Q. On the east side of the city?
- 22 A. Yes.
- 23 Q. Once he offers you this ride for breakfast what do you  
24 do?
- 25 A. We leave the club together. I notified my friends I was

- 1 leaving first and then we leave the club together.
- 2 Q. These are the girlfriends you came to the club with?
- 3 A. Yes.
- 4 Q. And when you left the club with Delano did he have this
- 5 unique car that he had?
- 6 A. Yes.
- 7 Q. Once he offers you a ride you said you told your friends
- 8 you were leaving, did you have like any personal
- 9 belongings?
- 10 A. Just a bookbag.
- 11 Q. Did you have a cellphone?
- 12 A. No.
- 13 Q. Did you even have a cellphone in 1996?
- 14 A. No.
- 15 Q. Now, when you said, go to the breakfast did you and
- 16 Delano have a plan or what your plan was to go to this
- 17 breakfast?
- 18 A. The plan was to go to breakfast.
- 19 Q. Okay. And what happens when you're going to breakfast?
- 20 A. One thing lead to another. Conversation changed. We
- 21 ended up going to his cousin's house where we had
- 22 consensual sex, protected.
- 23 Q. Can you tell us where this cousin's house was at?
- 24 A. Montclair.
- 25 Q. Is that in the city of Detroit?

- 1 A. Yes.
- 2 Q. Can you tell us about this cousin, was anyone home at  
3 this house?
- 4 A. I didn't see anyone.
- 5 Q. Okay.
- 6 And did he even name a cousin or did he  
7 just say, we're going to my cousin's house?
- 8 A. He didn't name anyone.
- 9 Q. So no one was home?
- 10 A. Correct.
- 11 Q. Okay.
- 12 And when you get to this house and you  
13 said Montclair, where in the city is Montclair?
- 14 A. It's on the east side of Detroit.
- 15 Q. And you said you had consensual sex with him and you said  
16 it was protected?
- 17 A. Yes.
- 18 Q. Does that mean that you used a condom?
- 19 A. Yes.
- 20 Q. And then, again, why would you use a condom?
- 21 A. I don't believe in having un protected sex. You don't  
22 know what people got.
- 23 Q. Okay. And how long were you at this house?
- 24 A. Thirty, maybe forty minutes.
- 25 Q. And, again, now if you got off at the club at say around

1           five o'clock what time of day would you say you're at  
2           this cousin's house?  
3   A.     About roughly maybe six thirty A.M.  
4   Q.     Okay. Is the sun up at this point?  
5   A.     Yes.  
6   Q.     Now, after you and Delano have the consensual sex what  
7           happens next?  
8   A.     I asked him to take me home. He said, okay, he had to  
9           make a stop first.  
10  Q.     And did you have a problem with him making the stop?  
11  A.     No.  
12  Q.     Once you -- he's going to make the stop where did he  
13           drive to?  
14  A.     He took me on the street called Weyher.  
15  Q.     Is that in the city of Detroit?  
16  A.     Yes.  
17  Q.     Once you arrived to Weyher Street -- is he driving the  
18           car and you're in the passenger seat?  
19  A.     Yes.  
20  Q.     Now, can you describe this front seat for us?  
21  A.     It's a long seat. It didn't have -- it was -- it's a  
22           long seat car. Older model cars didn't have a separate  
23           individual seat. It was just one long seat.  
24  Q.     When you said, an older model car, would you tell us what  
25           kind of car Delano had?



- 1 A. '88 Monte Carlo.
- 2 Q. So it was a bench seat?
- 3 A. Yeah.
- 4 Q. Tell us, once you arrive on Weyher Street what's Delano
- 5 do?
- 6 A. He parks in front of a house. He gets out the car. He
- 7 leaves the car running and he goes inside the house.
- 8 Q. So when the car's running are the keys left in the
- 9 ignition?
- 10 A. Yes.
- 11 Q. And where are you at in the car?
- 12 A. In the passenger seat.
- 13 Q. Do you see him go into this house?
- 14 A. Yes.
- 15 Q. And do you think that anything abnormal or unusual is
- 16 going on at this point?
- 17 A. No.
- 18 Q. So nothing is arising your concerns or anything like
- 19 that?
- 20 A. No.
- 21 Q. How long is Delano in this house?
- 22 A. Thirty, maybe forty minutes.
- 23 Q. And what are you doing out in the car at this time?
- 24 A. Sitting, waiting.
- 25 Q. And does he eventually come out of the house?

- 1 A. Yes.
- 2 Q. Now, tell us what happens when he comes out of the house?
- 3 A. He come out of the house. He got back in the car. He
- 4 drove to the end of the street which he was blocking the
- 5 alley first and he mumbled something to himself. He
- 6 backed up in front of the last house on the block which
- 7 is next to a alley. He got out the car and he walked up
- 8 on the porch and opened the door.
- 9 Q. Okay.
- 10 And, again, did you think anything
- 11 abnormal is going on at this point?
- 12 A. No.
- 13 Q. And did he leave the car running again?
- 14 A. Yes.
- 15 Q. And were the keys in the ignition?
- 16 A. Yes.
- 17 Q. Once he -- you said you saw him get out of the car and
- 18 walk. Where did he park the car at?
- 19 A. Right in front of the house. It's like at the tip of the
- 20 alley.
- 21 MS. LOZEN: One second, Judge. May I
- 22 approach the witness, Judge?
- 23 THE COURT: Sure.
- 24 BY MS. LOZEN (Continuing):
- 25 Q. I'm handing you what's been marked as People's Exhibit

1           Number -- or Proposed Exhibit Number Two. Can you tell  
2           us what that is?  
3   A.     It's Weyher Street and there's a circle there.  
4   Q.     And is that a map of the area?  
5   A.     Yes.  
6   Q.     Does it fairly and accurately depict the area as you saw  
7           it in September of 1996?  
8   A.     Yes.  
9                       MS. LOZEN: May it be admitted, Judge?  
10                    THE COURT: Any objections, counsel?  
11                    MR. GLENN: What's the number?  
12                    MS. LOZEN: Two.  
13                    MR. GLENN: No objections, Judge.  
14                    THE COURT: It will be admitted.  
15           BY MS. LOZEN (Continuing):  
16   Q.     Okay.  
17                    Miss Sams, now, do you see Weyher Street  
18           on here?  
19   A.     Yes.  
20   Q.     And, again, is this the east side of Detroit?  
21   A.     Yes.  
22   Q.     Okay. So Weyher Street is on the map?  
23   A.     Yes.  
24   Q.     And then what is this other street here?  
25   A.     McClellan.

1 Q. Okay.

2 And you said that Delano drove the car to  
3 which area?

4 A. Weyher Street.

5 Q. And then did he drive -- you said to the end of the  
6 street?

7 A. Yes.

8 Q. What's at the end of the street?

9 A. A alley.

10 Q. Okay. And is this alley where McClellan is?

11 A. It's right before you get to McClellan.

12 Q. So there's an alley right before you get to McClellan?

13 A. Yes.

14 Q. Okay.

15 And looking at this map can you draw on  
16 here for us and show us where that alley would have been  
17 at? Do you need a -- here. Okay. So for the Jury  
18 you're telling us that the alley was basically parallel  
19 to McClellan?

20 A. Yes.

21 Q. So it ran -- they would both run in the same direction?

22 A. Yes.

23 Q. Okay.

24 And does this alley run through to the  
25 other streets as well, if you know?

1 A. I can't remember.

2 Q. Okay. And so this car is at the alley?

3 A. Right here.

4 Q. And you said that Delano parked the car to block the  
5 alley or can you describe it for us?

6 A. When we pulled up in front he was blocking the alley at  
7 first and he mumbled something to himself and he reversed  
8 the car so it would be directly in front of the house  
9 which the house is like this and the alley is there so it  
10 was right in front of the house, but at the tip of the  
11 alley.

12 Q. At the tip of the alley.

13 And you said that he then walks into  
14 the -- or he's walking to go to this house?

15 A. Yes.

16 Q. And while you're in this car does anybody draw your  
17 attention?

18 A. I see a man coming down the alley.

19 Q. Okay.

20 A. Do you want me to go on? Walking through the alley.

21 Q. And have you ever seen this man before?

22 A. No.

23 Q. Can you describe, if you remember, what he's wearing?

24 A. Baseball cap, tan jacket, striped shirt, light colored  
25 bluejeans.

- 1 Q. And this man, does he do anything to draw your attention?
- 2 A. He walked in front of the car and I assumed that he was
- 3 going to walk past it, but he touched the tip of the car
- 4 with his finger and as I thought he was walking around --
- 5 Q. When you said to the car, what tip of the car?
- 6 A. Oh, the front of it.
- 7 Q. Would this be like the front lid?
- 8 A. Yes.
- 9 Q. The hood?
- 10 A. Yes.
- 11 Q. What did you see him do?
- 12 A. And he walks around and I'm thinking that he's just
- 13 walking and before I know it he snatches the door open
- 14 and that's when he -- he put the gun between my legs in
- 15 the car and he threatened to shoot me and take my money.
- 16 Q. Okay.
- 17 And let me ask you, you said he opened the
- 18 car door. Which door did he open?
- 19 A. The driver's side door.
- 20 Q. Is the car still running at this point?
- 21 A. Yes.
- 22 Q. Can you see when he came out of the alley did he have
- 23 anything in his hand?
- 24 A. No.
- 25 Q. When he got into the car did he have something in his

1 hands?

2 A. I don't know where he pulled the gun from.

3 Q. Can you describe this gun for us?

4 A. It was a .9 millimeter chrome.

5 Q. A small gun or a big gun?

6 A. Big gun.

7 Q. And you said what does he do with it?

8 A. He put it between my legs and he cocked it back and he

9 aims like he going to shoot me and he asked for my money.

10 Q. So does he say something about shooting you?

11 A. Yes.

12 Q. What does he say?

13 A. I'm going to pull the trigger.

14 Q. And then does he say something else?

15 A. Give me your money.

16 Q. And at this point what do you think is going on?

17 A. I'm terrified. I don't know what he gonna do to me.

18 Q. Now, you described this man. Could you tell what kind of

19 hair he had?

20 A. He had a baseball cap on.

21 Q. Okay. Could you see any kind of facial hair at all?

22 A. No, no facial hair.

23 Q. Okay.

24 And this baseball cap, can you describe if

25 you can see his whole face?

1 A. It was shadowy at the top. I could only see like the  
2 lower part from the nose down.

3 Q. Okay.

4 And this man that you described, was he --  
5 how tall was he?

6 A. About five eleven. Pretty close to six feet.

7 Q. And how much did he weigh?

8 A. One sixty. One fifty, one sixty.

9 Q. Okay.

10 And at this point could you see if he had  
11 any scars, marks or tattoos?

12 A. No.

13 Q. You couldn't see or you don't know?

14 A. I couldn't see any visible scars.

15 Q. Okay.

16 So he has this gun between your legs and  
17 he's saying essentially to give you all your money --

18 A. Yes.

19 Q. -- give him all your money? And he's sitting in the  
20 driver's seat of this car?

21 A. Yes.

22 Q. What happens next?

23 A. Then he puts the car in drive and we drive to Belvidere  
24 where he pulls over and when he pull over he pulled out  
25 his penis and he said for me to perform oral sex on him



- 1           and then he made me take my clothes off and he got on top  
2           of me in the front seat of the car and he put his penis  
3           in my bujus (ph).
- 4 Q.       So let me ask you, as the car's driving are you getting  
5           your -- while the car's driving are you getting your  
6           money out?
- 7 A.       No.
- 8 Q.       You were not able to?
- 9 A.       No.
- 10 Q.      When he parks the car on -- you said the next street is  
11          Belvidere?
- 12 A.      Yeah.
- 13 Q.      Were there any houses around or people around?
- 14 A.      It was a big vacant lot. He pulled in front.
- 15 Q.      Were there other cars around?
- 16 A.      I didn't see any.
- 17 Q.      Did you see any other people?
- 18 A.      No.
- 19 Q.      So was there any other else there that would be able to  
20          help you?
- 21 A.      No.
- 22 Q.      Now, you told us that he -- did he undo his jeans or his  
23          pants and take his penis out?
- 24 A.      He unzipped his fly and pulled out of penis.
- 25 Q.      And as he's doing this was he driving the car or had the

1 car parked already?

2 A. He parked the car.

3 Q. And where's the gun at?

4 A. He still had it in his hand.

5 Q. And is it pointed anywhere?

6 A. No.

7 Q. So it's just still in his hand? Is that a yes?

8 A. Yes.

9 Q. And he says to you, you should give him oral sex?

10 A. Yes.

11 Q. Did he say anything in particular?

12 A. Suck my D.

13 Q. When you say D, do you mean dick?

14 A. Yes.

15 Q. Thank you.

16 And what's going through your mind at this

17 point?

18 A. I'm scared. I don't know what he going to do to me.

19 Q. Had he already threatened to shoot you once before?

20 A. Yes.

21 Q. Was there a reason why you were not able to get out of

22 the car at this point?

23 A. Scared.

24 Q. And once he says to suck his dick what do you do?

25 A. Perform oral sex.

1 Q. Did you want to put your mouth on his penis?

2 A. No.

3 Q. And this all -- is this occurring fairly quickly or is  
4 this somewhat slow or tell me how much time has passed  
5 while he's in the car?

6 A. I don't remember.

7 Q. Okay.

8 And can you tell us to get from that  
9 Weyher and McClellan to Belvidere is that literally the  
10 next street over?

11 A. A couple streets.

12 Q. A couple streets?

13 Okay. And can you tell us on the map here  
14 just briefly, is this McClellan Street and then this is  
15 Belvidere right here?

16 A. Yes.

17 Q. Okay.

18 So it's fair to say it would not take too  
19 long to drive there?

20 A. No.

21 Q. Once you're performing oral sex on him do you know if he  
22 ejaculates?

23 A. No, he did not.

24 Q. Okay.

25 And after you performed oral sex what

- 1 happens next?
- 2 A. He made me take off my pants, underwear, and he made me
- 3 lay down and he got on top of me.
- 4 Q. And you're laying on this bench seat?
- 5 A. Yes.
- 6 Q. Can you tell us as you're laying on this bench seat you
- 7 said his fly is already down?
- 8 A. Yes.
- 9 Q. And then -- and you said he puts his penis in your
- 10 vagina?
- 11 A. Yes.
- 12 Q. Do you know if he wore a condom?
- 13 A. He didn't have on a condom.
- 14 Q. And as he's having sex with you, do you know if he
- 15 ejaculates?
- 16 A. Yes.
- 17 Q. Did you want him to have sex with you?
- 18 A. No.
- 19 Q. Where is the gun at, at this point?
- 20 A. He still had it in his hand.
- 21 Q. And how are you feeling at this point?
- 22 A. Scared.
- 23 Q. Is there a reason why are you gave him oral sex?
- 24 A. He had the gun.
- 25 Q. Is there a reason why you complied with him putting his

- 1 penis in your vagina?
- 2 A. He had a gun.
- 3 Q. After he -- you said he finished putting his penis in
- 4 your vagina what happens next?
- 5 A. He gets off of me. I put my clothes on and he's like,
- 6 take off your jewelry and lay it on the floor of the car
- 7 and put your money on the floor of the car, and then
- 8 after I did that he was like, get out, and I got out of
- 9 the car.
- 10 Q. Can you tell us what kind of jewelry you were wearing?
- 11 A. I had a Herringbone necklace and I had rings on my
- 12 fingers.
- 13 Q. Okay.
- 14 Can you describe this Herringbone necklace
- 15 for us?
- 16 A. A twenty-four karat gold, eighteen inch.
- 17 Q. Okay.
- 18 And who did you get this Herringbone
- 19 necklace from?
- 20 A. My son's father.
- 21 Q. How long had you had it?
- 22 A. I can't remember.
- 23 Q. Had you just gotten it or did you have it for a while?
- 24 A. I can't remember.
- 25 Q. Okay. And you said it was clasped around your neck?

- 1 A. Yes.
- 2 Q. And how did that come off?
- 3 A. He took it off.
- 4 Q. Can you describe that for us?
- 5 A. When I leaned over he unsnapped it when I was putting the
- 6 money and stuff on the floor.
- 7 Q. And you said you also had rings. Can you describe these
- 8 rings for us?
- 9 A. They spelled out my name, initial rings.
- 10 Q. Initial rings? And you were wearing them on your
- 11 fingers?
- 12 A. Yes.
- 13 Q. And he told you to put these rings on the floor, on the
- 14 floor of the car?
- 15 A. Yes.
- 16 Q. And then you also said you had some money?
- 17 A. Yes.
- 18 Q. How much money did you have?
- 19 A. I had sixty dollars.
- 20 Q. And where did you -- the money come from?
- 21 A. Out of my pocket.
- 22 Q. Did you have it in your bookbag?
- 23 A. No.
- 24 Q. You had it in your pocket? Were you wearing a jacket?
- 25 A. Yes.

1 Q. So as you leaned over to put the rings and the money on  
2 the floor did you intend to give him that necklace?

3 A. No.

4 Q. Why?

5 A. I didn't want to give him anything. I didn't want to  
6 be -- I didn't want him to do nothing to me.

7 Q. Okay.

8 And then he unsnapped the necklace from  
9 you as you were leaning over?

10 A. Yes.

11 Q. Does he say anything to you at this point, then?

12 A. Get out of the car.

13 Q. And what do you do?

14 A. Get out of the car.

15 Q. Did you see the gun at all while you were leaving the  
16 car?

17 A. He still had it.

18 Q. Okay. Was he still holding it in his hand?

19 A. Yes.

20 Q. Once you got out of the car do you take your clothing and  
21 bookbag with you?

22 A. Yes.

23 Q. Were you able to get dressed?

24 A. I put my pants and stuff back on in the car.

25 Q. Is this before or after you gave him the money?

1 A. After -- before I gave him the money.

2 Q. Okay.

3 When you are getting out of the car where

4 do you go or what do you do?

5 A. I start walking.

6 Q. And do you know what direction you're walking?

7 A. I walk towards Mack.

8 Q. And as you're walking towards Mack did you see what

9 happened to the car?

10 A. Once I made a right on Mack the car came and he made a

11 left on Mack.

12 Q. And this is Delano's car that had the distinctive

13 features on it?

14 A. Yes.

15 Q. And on that day of September 14th did you see that car

16 again?

17 A. No.

18 Q. Did you see this man who assaulted you again?

19 A. No.

20 Q. When you are -- you said now you're on Mack and you saw

21 this car go in the opposite direction. Where do you go?

22 A. I walked down Mack to Van Dyke to where I got to my

23 friend Ebony's house.

24 Q. Is this the Ebony that you saw earlier in that morning --

25 A. Yes.



1 Q. -- that went to work with you? And did she go to work  
2 with you that morning?

3 A. Yes.

4 Q. Okay.

5 When you got to Ebony's house is this the  
6 first house that you knew that you saw that you were  
7 familiar with?

8 A. No.

9 Q. Okay. Why did you go to Ebony's house?

10 A. I don't know.

11 Q. Okay. Was she a friend of yours at this point?

12 A. Yes.

13 Q. And once you got to Ebony's house what happened?

14 A. I told him what -- her what happened and they didn't  
15 believe me.

16 Q. When you said they who was at the house?

17 A. LaChelle and Shonta and it was another young lady. I  
18 don't know her.

19 Q. Were they friend of Ebony's?

20 A. Yes.

21 Q. And you told them what happened? You told them you had  
22 been raped?

23 A. Yes.

24 Q. And you said they didn't believe you?

25 A. No.

1 Q. Did they offer to let you use the phone?

2 A. I never asked.

3 Q. Okay.

4 When they didn't believe you how did that  
5 make you feel?

6 A. I felt even worse.

7 Q. And when they didn't believe you what happened at this  
8 time?

9 A. We got into a argument and a fight and afterwards I left  
10 and I went home.

11 Q. Okay.

12 When you said a fight who were you  
13 fighting with?

14 A. With Shonta and the other girl.

15 Q. And then would -- during this fight did you become  
16 injured at all?

17 A. Yes.

18 Q. Tell me how you were injured?

19 A. I ended up with a black eye.

20 Q. Do you remember which eye it was?

21 A. The right.

22 Q. Okay.

23 When you -- is this from -- how did you  
24 get the black eye?

25 A. From the fight.

1 Q. And you said that you then left Ebony's house?

2 A. Yes.

3 Q. And you said they were not willing to help you?

4 A. No.

5 Q. Okay.

6 Once you left Ebony's house you said you  
7 go somewhere else. Where do you go?

8 A. Home.

9 Q. And where is home at?

10 A. Sheridan.

11 Q. Is this a home you lived at where your grandmother?

12 A. Yes.

13 Q. How far a walk is it from Mack and Van Dyke to Sheridan?

14 A. About four blocks.

15 Q. And this is also on the east side?

16 A. Yes.

17 Q. So you have to -- from where you were at on McClellan you  
18 have to walk through Van Dyke to get to Sheridan?

19 A. Walk past Van Dyke.

20 Q. You have to walk past Van Dyke.

21 Okay. So it's not like -- you didn't pass  
22 your grandmother's house first?

23 A. No.

24 Q. Ebony's house came first?

25 A. Yes.

1 Q. Once you get to your grandmother's house about what time  
2 is it?

3 A. I don't remember.

4 Q. Is it still the morning hours?

5 A. Yes.

6 Q. Once you get to your grandmother's house is your  
7 grandmother home?

8 A. Yes.

9 Q. And you said you lived there with your other siblings?

10 A. Yes.

11 Q. Were they older or younger than you?

12 A. One was older and the rest was younger.

13 Q. You said you were at your grandmother's home. Do you  
14 tell her what happened to you?

15 A. Yes.

16 Q. And as a result of telling your grandmother what happened  
17 did your grandmother help you?

18 A. She give me some peroxide to rinse my mouth out with and  
19 told me to -- and helped me run the water to take a  
20 shower.

21 Q. Why did you want to take a shower?

22 A. I just wanted it to go away.

23 Q. And why did you rinse your mouth out?

24 A. I just wanted it to go away. It was like a bad dream. I  
25 just wanted it to go away.

- 1 Q. Now, at this time when you got home is there a reason  
2 that you didn't immediately call the police?
- 3 A. I just wanted it to go away. I didn't -- I didn't want  
4 to go through it.
- 5 Q. Okay. And eventually do you call anybody else?
- 6 A. I called my sister.
- 7 Q. And why do you call your sister?
- 8 A. I just needed somebody to talk to and I told her what  
9 happened and she said, don't let nobody get away with  
10 doing that to you, let's go to the precinct, and we went.
- 11 Q. Now, the sister, is she older or younger than you?
- 12 A. Older.
- 13 Q. Was she living on Sheridan with you?
- 14 A. No.
- 15 Q. She had her own house?
- 16 A. Yes.
- 17 Q. Now, your sister from you said -- were you, in fact, able  
18 to take a bath and shower?
- 19 A. I took a shower.
- 20 Q. Okay.
- 21 And you said, in fact, you were able to  
22 rinse your mouth out?
- 23 A. Yes.
- 24 Q. How long did it take your sister to arrive?
- 25 A. I can't remember.

- 1 Q. Is it still the morning hours or into the afternoon?
- 2 A. It might have been afternoon. I can't remember.
- 3 Q. You can't remember. Are you essentially guessing right
- 4 now --
- 5 A. Yes.
- 6 Q. -- about the time?
- 7 Okay. Once your sister -- you were able
- 8 to call your sister on the phone?
- 9 A. Yes.
- 10 Q. And then she comes to grandmother's house?
- 11 A. Yes.
- 12 Q. And then you said you tell her what happened to you?
- 13 A. Yes.
- 14 Q. Okay.
- 15 And then she offers to take you to the
- 16 police department. How did you get to the police?
- 17 A. Cab.
- 18 Q. Okay. You didn't have a car?
- 19 A. No.
- 20 Q. Once you -- do you remember what precinct you go to?
- 21 A. The 7th Precinct.
- 22 Q. Where was that at?
- 23 A. It was on Mack and Elmwood.
- 24 Q. And, again, is this on the east side?
- 25 A. Yes.

1 Q. When you are -- can you tell us your sister's name?

2 A. Lashawn Hayes Cooper.

3 Q. Okay.

4 And Lashawn, did she go with you to the  
5 police department?

6 A. Yes.

7 Q. And when you were at the police department what happened?

8 A. Um, I go in and I talk to a officer and they take my  
9 report and then they took me to Receiving Hospital.

10 Q. Now, did you tell the police what happened to you?

11 A. Yes.

12 Q. And did you tell them what streets you were on when you  
13 were assaulted?

14 A. Yes.

15 Q. Okay.

16 Do you remember telling them anything  
17 about it happening on Rohns Street, R-o-h-n-s, Rohns  
18 Street?

19 A. I can't remember.

20 Q. Okay.

21 And do you even remember telling them what  
22 street it was on or do you remember telling them what  
23 happened?

24 A. I remember telling them what happened.

25 Q. Okay.

1 Can you remember giving the police  
2 anything -- any description of the car?

3 A. Yes.

4 Q. Okay.

5 And did you tell them anything about like  
6 a license plate number?

7 A. I can't remember.

8 Q. Can you remember if this man, this Delano that you saw  
9 earlier, if he gave you a beeper number at all?

10 A. I can't remember.

11 Q. Okay. You said the police took you to the hospital?

12 A. Yes.

13 Q. Do you remember what hospital you went to?

14 A. Receiving.

15 Q. And did your sister go with you?

16 A. Yes.

17 Q. Now, when you were at the hospital did the doctors exam  
18 you?

19 A. Yes.

20 Q. And when they're examining you what part of your body did  
21 they look at?

22 A. Um, they did vaginal swabs. They took pictures to see if  
23 I had any bruises.

24 Q. Do you remember them taking pictures?

25 A. I believe so.



1 Q. Okay. But as you sit here today do you know?

2 A. No. I can't remember.

3 Q. Okay.

4 While you are at the hospital to do the --  
5 you said they took swabs to do that. Was that of your  
6 vagina?

7 A. Yes.

8 Q. And so did they have to do a genital examination?

9 A. Yes.

10 Q. Did you have to essentially lay on your back and put your  
11 feet in stirrups?

12 A. Yes.

13 Q. Now, while they're examining your vagina and doing these  
14 swabs how did you feel during this examination?

15 A. It's hard to describe how you feel after you've been  
16 raped.

17 Q. Okay. You said you do remember them taking swabs?

18 A. Yes.

19 Q. And when you're at the hospital do you remember if they  
20 gave you any medication?

21 A. They gave me medication, but I can't remember the name or  
22 what they were.

23 Q. Okay.

24 Now, at the time do you remember telling  
25 the doctors that the last time you had coitus or sex was

1 in June of 1996?

2 A. I can't remember.

3 Q. Okay.

4 Is there a reason why you would tell the  
5 doctors the last time you had sex was June of '96?

6 A. No.

7 Q. And you told us today that you, in fact, had consensual  
8 sex with Delano that morning?

9 A. Yes.

10 Q. So if they would have -- if the officers would have asked  
11 you about having consensual sex with Delano would you  
12 have told them?

13 A. Yes.

14 Q. Now, do you remember when you were at the hospital if  
15 they collected your clothing?

16 A. I can't remember.

17 Q. When you were at home where your grandmother did you --  
18 you said you took a shower?

19 A. Yes.

20 Q. And then did you, in fact, change clothing?

21 A. Yes.

22 Q. So the clothing you wore to the hospital was not the  
23 clothing you were wearing during the assault?

24 A. No.

25 Q. And you said that Lashawn took you to the hospital. Was

1 she with you this entire time at the hospital?

2 A. Yes.

3 Q. Do you eventually give the police your clothing?

4 A. Yes.

5 Q. And when did you give the police your clothing?

6 A. I can't remember the exact date.

7 Q. Okay.

8 Was it while you were at the hospital or a  
9 different time.

10 A. At a different time.

11 Q. Now, you told us today that you were -- that actually  
12 during the assault, the sexual assault, were you injured  
13 at all?

14 A. No.

15 Q. And you said that your injury actually occurred later on  
16 while you were at Ebony's house?

17 A. Yes.

18 Q. Would there been a reason why you would tell the police  
19 or the police would document that the perpetrator, in  
20 fact, assaulted you?

21 A. While I was answering questions I should have been  
22 finishing 'em and I wasn't and they probably just ran  
23 together and not -- but he did not -- no.

24 Q. Okay.

25 So if he was the one who hit you, you

1 would have told us that today?

2 A. Yes.

3 Q. And you're telling us today that it was, in fact, at  
4 Ebony's house you were --

5 A. Yes.

6 Q. -- that you got the black eye?

7 A. Yes.

8 Q. And so you didn't write in the report that the -- it's  
9 not your handwriting anyplace, correct? You didn't fill  
10 out any reports yourself?

11 A. I can't remember.

12 Q. Okay.

13 Now, you -- from leaving the hospital and  
14 you said Lashawn was with you, can you tell us where you  
15 go after that?

16 A. I went to Lashawn's house.

17 Q. And where was her house at?

18 A. French Road.

19 Q. Is that still in the city of Detroit?

20 A. Yes.

21 Q. Well, is there a reason you didn't go back to your  
22 grandmother's house on Sheridan?

23 A. I didn't want him to think that I had took off with his  
24 car and out of fear for my safety and my family's safety  
25 I thought it was be best if I didn't go back to the

1 house.

2 Q. When you said he, you mean Delano?

3 A. Yes.

4 Q. Okay.

5 And so you didn't want to be in the  
6 neighborhood?

7 A. No.

8 Q. Okay. So you, in fact, went to your sister's house?

9 A. Yes.

10 Q. Now, later on do you eventually see this car again?

11 A. Yes.

12 Q. How much time passes from the assault to when you see the  
13 car again?

14 A. I can't remember.

15 Q. Was it within the week or a few weeks later?

16 A. I can't remember.

17 Q. Okay. Do you know if the weather had changed at all?

18 A. Yes. It was cold.

19 Q. Okay.

20 And so when you were assaulted what was  
21 the weather like?

22 A. It was summer.

23 Q. Okay.

24 And then you said it was cold out when  
25 you, in fact, saw this car again?

- 1 A. Yes.
- 2 Q. And is it the distinctive car as you described for us?
- 3 A. Yes.
- 4 Q. Where did you see the car at?
- 5 A. On Fields.
- 6 Q. And was anybody in the car when you saw it again?
- 7 A. No.
- 8 Q. Did you ever see Delano again?
- 9 A. No.
- 10 Q. But were you in the neighborhood at this time?
- 11 A. We were just out riding.
- 12 Q. When you say we, who were you with?
- 13 A. Me, Lashawn, and one of her friends. I can't remember --
- 14 um, he's deceased now.
- 15 Q. Okay.
- 16 Let me ask you, when you said he's
- 17 deceased now, when you say he, who are you talking about.
- 18 A. Lashawn's friend.
- 19 Q. Lashawn's friend.
- 20 Okay. After you spoke to the police about
- 21 your sexual assault and you went to the hospital did you
- 22 hear from the police again?
- 23 A. Yes.
- 24 Q. Was this about your assault or something else?
- 25 A. It was about something else.

1 Q. Okay.

2 Did you hear from the police again about  
3 your sexual assault?

4 A. Yes.

5 Q. Okay. In 1996?

6 A. Yes.

7 Q. Okay.

8 And in 1996 when you heard from the police  
9 again tell us what was the substance of the conversation  
10 was?

11 A. They asked me to take a ride and showed 'em the area  
12 where it happened.

13 Q. Okay. Would this be the street that it happened on?

14 A. Yes.

15 Q. And did you do that for them?

16 A. Yes.

17 Q. And then did you hear from the police anymore if they had  
18 a suspect or anything?

19 A. I heard from the police. They were saying that --

20 MR. GLENN: Objection to hearsay.

21 THE COURT: Sustained.

22 BY MS. LOZEN (Continuing):

23 Q. Did the police have a suspect? Did they have a suspect  
24 or perpetrator who they thought raped you?

25 MR. GLENN: Objection.

1 THE COURT: Sustained. That's totally  
2 leading, counsel.

3 MS. LOZEN: Judge --

4 THE COURT: That's totally leading.

5 MS. LOZEN: Thank you, Judge.

6 BY MS. LOZEN (Continuing):

7 Q. When you are -- are you eventually contacted by the  
8 police?

9 A. Yes.

10 Q. And is this relating to your assault or to Delano?

11 A. Delano.

12 Q. Okay. Do you know when this occurred?

13 A. In November of '96.

14 Q. And why did the police want to talk to you?

15 MR. GLENN: Objection. Relevancy.

16 THE COURT: Why is it relevant, counsel,  
17 whether the police want to talk to him about Delano --  
18 her about Delano?

19 MS. LOZEN: Because this man, this Delano,  
20 was with her on the day of the assault and it shows where  
21 Delano is now.

22 THE COURT: But from what I heard -- from  
23 what I heard Delano didn't observe anything so the  
24 objection is sustained.

25 MS. LOZEN: Okay.



1 BY MS. LOZEN (Continuing):

2 Q. Miss Sams, do you know where Delano is now?

3 MR. GLENN: Objection. Relevancy.

4 THE COURT: Unless you can lay a  
5 foundation as to how she has personal knowledge as to  
6 where he is. She is just saying what somebody said or  
7 heard. The objection is sustained.

8 BY MS. LOZEN (Continuing):

9 Q. Do you have personal knowledge of where Delano is now?

10 A. I was -- the police contacted me and said --

11 THE COURT: Sustained. She's going to  
12 tell us what the police told her.

13 BY MS. LOZEN (Continuing):

14 Q. Can he come in here today? Could he come walk through  
15 that door and come into this courtroom?

16 THE COURT: Sustained, counsel. No,  
17 evidently you can't get it through her.

18 MS. LOZEN: Thank you, Judge. I can do it  
19 later on. Just so the jury -- I don't want the jury to  
20 think that I'm hiding anything.

21 THE COURT: Well, hold it. Hold it. You  
22 don't have to explain what you're doing. I made a ruling  
23 and I expect you to abide by it, okay.

24 MS. LOZEN: Yes, Judge.

25 THE COURT: Okay. Whether you can do it

1 through somebody else, that's between you and your case.

2 MS. LOZEN: Yes, Judge. Thank you.

3 BY MS. LOZEN (Continuing):

4 Q. Miss Sams Dowe, are you later contacted by the police in  
5 2015 about your rape?

6 A. Yes.

7 Q. And who contacted you?

8 A. Detective Mike Sabo.

9 Q. Is that Detective Sabo who's sitting with us right now?

10 A. Yes.

11 MS. LOZEN: And, Judge, just for the  
12 record, I know we asked for a sequestration order  
13 earlier. I don't remember if I asked for an exception  
14 for my officer in charge.

15 THE COURT: No, you did not. The  
16 sequestration order applies to him, counsel.

17 MS. LOZEN: And, Judge, I would ask for an  
18 exception for him at this point.

19 THE COURT: No. He sat here and listened  
20 to all of her testimony.

21 MS. LOZEN: Judge, the officer in charge  
22 routinely sits through --

23 THE COURT: Well, when I was -- previously  
24 the officer in charge testified first so you wouldn't get  
25 caught up in this, counsel.

1 MS. LOZEN: Thank you, Judge.

2 THE COURT: You left him in here. You  
3 made the sequester order and you haven't abided by it so  
4 his testimony is not available for you. That's the  
5 ruling.

6 MS. LOZEN: May he testify after Miss Dowe  
7 regarding other incidences?

8 THE COURT: As to what?

9 MS. LOZEN: We'll get --

10 THE COURT: Well, maybe we need this --  
11 let's finish her up.

12 MS. LOZEN: Thank you, Judge.

13 THE COURT: Cause we going to have to have  
14 the jury excused to listen to what you got to say.

15 MS. LOZEN: Yes, Judge.

16 BY MS. LOZEN (Continuing):

17 Q. And can you tell us, Miss Dowe, Detective Sabo does, in  
18 fact, contact you, correct?

19 A. Yes.

20 Q. And what does he contact you about?

21 A. Regarding my unsolved rape case.

22 Q. Okay. Did he have information for you?

23 A. Yes.

24 Q. And do you know what this information was about?

25 A. He said that --

1 MR. GLENN: Objection to --

2 THE COURT: Sustained.

3 BY MS. LOZEN (Continuing):

4 Q. Do you know if your rape kit was tested?

5 A. Yes.

6 Q. Was it tested in 1996?

7 A. I don't know.

8 Q. To your knowledge was it tested in 2015 or thereafter?

9 MR. GLENN: Objection. This calls for  
10 hearsay.

11 THE COURT: No, you're going to have to  
12 get it through somebody else, counsel.

13 THE WITNESS: I don't know.

14 MS. LOZEN: Okay.

15 THE COURT: Well, she said she doesn't  
16 know, so --

17 MS. LOZEN: Then, thank you, Judge.

18 BY MS. LOZEN (Continuing):

19 Q. What was your reaction when you found out your rape kit  
20 had been tested?

21 MR. GLENN: Objection.

22 THE COURT: Well, I don't know, as to why?

23 MR. GLENN: All she can do is tell us what  
24 someone told her.

25 THE COURT: No, she didn't say what

1           somebody told her. She said what was your reaction.

2                   MR. GLENN: Well -- all right.

3                   THE COURT: You're overruled. Go ahead.

4           BY MS. LOZEN (Continuing):

5 Q.       What was your reaction when you found out your rape kit  
6       had been tested?

7 A.       I was happy that maybe I -- you know, I was happy.

8 Q.       Okay.

9                   Did you want to be involved in reopening  
10       this investigation?

11 A.       Yes.

12 Q.       Okay.

13                   And eventually does Detective Sabo show  
14       you a paper with some pictures on them?

15 A.       Yes.

16                   MS. LOZEN: May I approach, Judge?

17                   THE COURT: Sure. You don't have to ask  
18       me ask you approach.

19                   MS. LOZEN: Sorry. I just thought --  
20       okay. Thank you.

21       BY MS. LOZEN (Continuing):

22 Q.       I'm showing you what's been marked as People's Proposed  
23       Exhibit Number Three. Do you recognize that?

24 A.       Yes.

25 Q.       And what is that?

1 A. It's a photo line-up.

2 Q. Is that the photo line-up that you saw?

3 A. Yes.

4 Q. Okay.

5 MS. LOZEN: May it be admitted, Judge? I  
6 ask.

7 THE COURT: Sure.

8 MS. LOZEN: I ask for it to be admitted.

9 THE COURT: Sure. Any objections,  
10 counsel? I didn't ask you.

11 MR. GLENN: No, no objection.

12 THE COURT: All right. Fine.

13 BY MS. LOZEN (Continuing):

14 Q. And People's Exhibit Number Three, there was a line-up.  
15 When you saw that did you recognize any of the men in  
16 here as your rapist? Were you able to identify anyone as  
17 your rapist?

18 A. No.

19 Q. And does the bottom of it indicate that, no, you were not  
20 able to identify anyone? Is this box checked no?

21 A. Yes.

22 Q. Okay.

23 And it says, photo selected is NA, is that  
24 correct?

25 A. Yes.

1 Q. And does it say, date of identification is October 9th,  
2 of 2015?

3 A. Yes.

4 Q. Now, is this your handwriting or was this Detective  
5 Sabo's handwriting?

6 A. I can't see from here.

7 Q. Okay.

8 A. I'm not sure.

9 Q. So you don't know if that's your handwriting?

10 A. Right.

11 Q. Okay. But you did not sign this form, correct?

12 A. No, I did not.

13 Q. Okay.

14 Now, in this line-up did you know anybody  
15 in here?

16 A. Yes.

17 Q. Okay.

18 When you said you knew somebody did  
19 Detective Sabo then show you a single photo?

20 A. Yes.

21 Q. Okay.

22 I'm showing you what's been marked as  
23 people Proposed Exhibit Number Four. And what is  
24 People's Proposed Exhibit Number Four?

25 A. A picture.

1 Q. Okay. Is this picture included in the line-up?

2 A. Yes.

3 Q. And is this a picture you saw after you viewed the  
4 line-up?

5 A. Yes.

6 MS. LOZEN: I move to admit People's  
7 Exhibit Number Four.

8 MR. GLENN: No objection.

9 THE COURT: It will be admitted.

10 BY MS. LOZEN (Continuing):

11 Q. So for People's Exhibit Number Four did you know this  
12 person in this line-up?

13 A. Yes.

14 Q. And who is this person to you?

15 A. My niece's uncle.

16 Q. So in 1996 I know you told us you couldn't remember his  
17 face, is that correct?

18 A. That's correct.

19 Q. And is that one of the reasons why you were not able to  
20 pick anybody out of the line-up?

21 A. That's correct.

22 Q. When you show -- when you finally saw this individual  
23 photo of somebody you said you knew his name?

24 A. Yes.

25 Q. What name did you know him as?



1 A. Arthur Jemison.

2 Q. Okay. Now, do you see Arthur Jemison in court today?

3 A. Yes.

4 Q. Could you point to him and tell us what he's wearing?

5 A. Burgundy T-shirt, striped blue and white shirt, dark blue  
6 or black pants and black shoes.

7 Q. Thank you.

8 MS. LOZEN: Judge, for the record she's  
9 identified the Defendant.

10 THE COURT: The record shall so reflect.

11 BY MS. LOZEN (Continuing):

12 Q. Now, you told us that the man, Arthur Jemison, you  
13 identified in court today is your niece's uncle, is that  
14 correct?

15 A. That's correct.

16 Q. Now, you told us earlier that when you were living on  
17 Sheridan with your grandmother you had some younger  
18 siblings?

19 A. Yes.

20 Q. And did you have a younger sister?

21 A. Two younger sisters.

22 Q. Two younger sisters? What were their names?

23 A. Andrea and Nicole.

24 Q. And talking about Andrea, does Andrea eventually have a  
25 boyfriend?

1 A. Yes.

2 Q. Okay.

3 And to your knowledge in 1996 about how  
4 old was Andrea?

5 A. About twelve.

6 Q. Okay.

7 So in 1996 did you talk to her about your  
8 assault?

9 A. No.

10 Q. And so in -- eventually you said Andrea has a boyfriend?

11 A. Yes.

12 Q. And do you know this boyfriend's name?

13 A. Yes.

14 Q. What's his name?

15 A. Lewan Jemison.

16 Q. And how is Lewan Jemison related to Arthur Jemison?

17 A. He's his brother.

18 Q. Okay.

19 And you said earlier that there's a niece  
20 involved. So do Andrea and Lewan have a child together?

21 A. Two.

22 Q. Okay. When was the first child born?

23 A. 2000.

24 Q. And is the niece a little girl?

25 A. Yes.

1 Q. And where was Andrea living at the time in 2000 when the  
2 baby was born?

3 A. She was living with me on Wayburn.

4 Q. So you moved -- eventually moved to Wayburn Street?

5 A. Yes.

6 Q. And when you're on Wayburn Street you said Andrea was  
7 living with you?

8 A. Yes.

9 Q. And the baby was living with you as well?

10 A. Yes.

11 Q. Now, do you -- are you eventually introduced to Arthur  
12 Jemison?

13 A. Yes.

14 Q. Can you tell us how that happened?

15 A. He came over to see the baby and my sister and his  
16 brother introduced us.

17 Q. So when you say he, Arthur Jemison came over to see the  
18 baby?

19 A. Yes.

20 Q. To your house?

21 A. Yes.

22 Q. And when you saw him in the year 2000 can you describe  
23 his physical appearance at this point?

24 A. About close to three hundred, maybe more.

25 Q. What was his height?

1 A. Five eleven, close to six feet.

2 Q. Okay.

3 So you previously described your rapist as  
4 being how much weight?

5 A. One sixty, one seventy.

6 Q. Okay.

7 And then the man, Arthur Jemison, you met  
8 in the year 2007 had put on some weight?

9 A. Yes.

10 Q. Now, from yourself in the year of 1996 about how much did  
11 you weigh?

12 A. One eighteen.

13 Q. Okay. And in 1996 how tall were you?

14 A. Five three.

15 Q. Has your height changed at all?

16 A. No.

17 Q. Okay.

18 So you're still five three, but as of  
19 today and when you sit here in 2015 have you put on some  
20 weight?

21 A. Yes.

22 Q. Okay.

23 And now tell us, you've described for us  
24 the physical appearance of Mr. Jemison when you met him  
25 in the year of 2000, correct?

1 A. Yes.

2 Q. And when you met him in the year 2000 did you recognize  
3 his voice or his mannerisms at all?

4 A. No.

5 Q. Did you realize or know or believe that he could be the  
6 man that raped you in 1996?

7 A. No.

8 Q. And then in 1996 had you met Arthur Jemison?

9 A. No.

10 Q. Did you meet Lewan Jemison in 1996?

11 A. No.

12 Q. So you're telling us today you did not meet him until the  
13 year 2000?

14 A. Lewan Jemison?

15 Q. Arthur Jemison?

16 A. Arthur Jemison I met in 2000.

17 Q. And you met Lewan?

18 A. '99.

19 Q. 1999.

20 Now, Miss Dowe, you indicated to us that  
21 you've been married, when you sit here today in 2015 --  
22 2016?

23 A. Yes.

24 Q. And you wanted to be involved in this investigation?

25 A. Yes.

1 Q. Okay.

2 And is there a reason why you're agreeing  
3 or participating with this investigation in this case  
4 now?

5 A. I want what anybody wants, to face their accuser.

6 Q. Okay.

7 Do you want to face the man that assaulted  
8 you?

9 A. Yes.

10 Q. And is there a reason why you're coming to court now?

11 A. I want justice.

12 Q. Okay. And is that the reason why you're here today?

13 A. Yes.

14 Q. Okay.

15 You indicated that you're now married. Do  
16 you have new additions to your family?

17 A. Yes.

18 Q. And are you working right now?

19 A. Medical leave.

20 Q. You're on medical leave?

21 A. Yes.

22 Q. Okay. Did you just have a baby?

23 A. Yes.

24 Q. And so essentially you've had to interrupt your life to  
25 come here today?

1 A. Yes.

2 MS. LOZEN: Nothing further at this time,  
3 Judge.

4 THE COURT: Okay. Let's take our morning  
5 break. We'll break until about eleven fifteen.

6 COURT OFFICER: All rise.

7 THE COURT: Okay. Ladies and gentlemen of  
8 the Jury, go into the jury room. Do not discuss the case  
9 in any manner, okay. Just relax, okay.

10 COURT OFFICER: Leave your notebooks on  
11 your seats, please.

12 (11:00 A.M. the jury left the courtroom)

13 COURT OFFICER: You may be seated.

14 MS. LOZEN: One thing I need to --

15 THE COURT: Go ahead.

16 MS. LOZEN: Okay. One thing, Judge, I  
17 would ask for the sequestration order to exclude the  
18 officer in charge. He's not -- when he testifies he's  
19 not going to testify about what other witnesses are  
20 testifying about.

21 Rather, he'll testify about receiving this  
22 case, receiving the lab reports and then reopening the  
23 investigation. He'll testify about the contents of the  
24 original police jacket and the efforts that he made to  
25 develop this case so it could be submitted to court.

1 I do apologize for not asking for the  
2 sequestration order exception earlier. However, he  
3 basically only heard Miss Sams Dowe testify as well as  
4 the doctor. So as far as the substantive evidence is  
5 concerned he heard those two witnesses and, again, I do  
6 apologize for not speaking earlier. I usually as a  
7 matter of course --

8 THE COURT: He's not going to buttress any  
9 of her testimony, is he?

10 MS. LOZEN: I'm sorry?

11 THE COURT: He's not going to buttress any  
12 of her testimony?

13 MS. LOZEN: He would --

14 THE COURT: Saying that she couldn't  
15 remember and he's going to say --

16 MS. LOZEN: As far as corroborating her  
17 testimony?

18 THE COURT: Yes.

19 MS. LOZEN: He'll say that he contacted  
20 other witnesses and that he located these other  
21 witnesses.

22 THE COURT: Oh, that's not -- but he's  
23 not --

24 MS. LOZEN: Essentially I believe the  
25 answer is, no, that he will testify to the work that he



1 did.

2 THE COURT: Okay. All right. What do you  
3 have to say about that?

4 MR. GLENN: As long as he's not used to  
5 reinforce or corroborate either witness' testimony I  
6 don't have an issue with it.

7 THE COURT: Okay. The exception will be  
8 granted.

9 MS. LOZEN: Thank you, Judge.

10 THE COURT: Okay.

11 (11:00 A.M. recess taken)

12 (Whereupon another case was heard)

13 (11:18 A.M. back on record)

14 COURT OFFICER: All rise.

15 (11:18 A.M. the jury was brought into  
16 The courtroom)

17 COURT OFFICER: Please be seated.

18 THE COURT: All right. The witness is  
19 indisposed for a minute. She'll be ready.

20 (Whereupon the witness resumed the  
21 Witness stand)

22 THE COURT: Okay. Ma'am, you're still  
23 under oath, okay.

24 THE WITNESS: Yes.

25 THE COURT: Okay. Go ahead.

CROSS EXAMINATION

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BY MR. GLENN:

Q. Good morning, ma'am.

A. Good morning.

Q. Now, I want to go back and start reviewing some of the testimony that you have given here today. Now, going back to September the 14th, of 1996 you'd indicated that you were an exotic dancer at the Outcast Motorcycle Club, right?

A. Yes.

Q. And I believe you said your hours were from two A.M. to five A.M., right?

A. Yes.

Q. And that your compensations was strictly through tips, right?

A. Yes.

Q. And I believe you said that you gave dances, right?

A. Yes.

Q. Now, when you use the term dance, what are you referring to?

A. Lap dance.

Q. Okay.

And for a person, a square or somebody who doesn't know, what is a lap dance?

MS. LOZEN: Well, Judge, again, I have to

1 object to relevance.

2 THE COURT: Overruled. Go ahead.

3 BY MR. GLENN (Continuing):

4 Q. What is a lap dance?

5 A. Where you sit on their lap and you dance for 'em.

6 Q. Okay. So when you say they, are you talking about --

7 A. A individual.

8 Q. All right. That's one of the patrons of the club?

9 A. Yes.

10 Q. And they more than likely will be a male?

11 A. Yes.

12 Q. Okay.

13 All right. And when you're sitting on  
14 their lap you indicated that you were clothed, right?

15 A. Yes.

16 Q. All right.

17 And on this night you had indicated that  
18 you gave a lap dance to a person by the name of Delano,  
19 right?

20 A. Yes.

21 Q. And it's my understanding that you formally had not been  
22 introduced to Delano before this date?

23 A. That's correct.

24 Q. You had seen him around in the neighborhood, but you  
25 hadn't formally met him?

1 A. That's correct.

2 Q. Now, when you saw him in the neighborhood and around was  
3 he driving the car that you talked about?

4 A. Yes.

5 Q. All right.

6 And how long have you known -- had you  
7 seen him driving around in this car before?

8 A. Pretty much the whole summer.

9 Q. So it had been, what, months?

10 A. Months.

11 Q. Would it be going back years?

12 A. I can't remember.

13 Q. Okay.

14 And how often would you see Delano in the  
15 neighborhood?

16 A. Just about every day.

17 Q. And was Delano a member of Outcast Motorcycle Club?

18 A. No.

19 Q. Now, was this a club that was open to the public?

20 A. Yes.

21 Q. So anybody could come in?

22 A. Yes.

23 Q. And did they -- outside of the dancing anything else  
24 going on, selling beer or anything like that?

25 A. I don't know.

1 Q. How long had you worked at the Outcast club?

2 A. Four months.

3 Q. Okay.

4 Now, after the 14th did you go back to the  
5 Outcast club?

6 A. No.

7 Q. So the 14th was your last day?

8 A. Yes.

9 Q. And you had indicated that there were a couple of  
10 friends, I believe it was Ebony and, what, LaChelle?

11 A. Yes.

12 Q. Okay. They were also co-dancers at the club?

13 A. Yes.

14 Q. All right.

15 And those were dancers that you had shared  
16 a cab with earlier that morning?

17 A. Yes.

18 Q. Okay.

19 Now, after you had given Delano a lap  
20 dance there came a point in time where the club closed,  
21 right?

22 A. Yes.

23 Q. Do you remember what time the club closed?

24 A. Five A.M.

25 Q. Is that the normal time it closed or was it just closed

1           that time?

2   A.     It just closed at five.

3   Q.     All right. How do you know it was five?

4   A.     He said it's five o'clock, it's time to go.

5   Q.     All right. Who is he?

6   A.     One of the members of the club announced over the  
7           microphone.

8   Q.     All right.

9                               And Delano, I take it, was still in the  
10           club?

11   A.     Yes.

12   Q.     And were you talking to him at that time?

13   A.     Yes.

14   Q.     Okay.

15                           And it was an agreement that you would  
16           leave and go have breakfast, right?

17   A.     Yes.

18   Q.     Was there any particular place you were going to go for  
19           breakfast?

20   A.     Coney Island.

21   Q.     Okay. And where would that be?

22   A.     It was downtown.

23   Q.     Okay.

24                           Where was the Outcast Motorcycle Club? Is  
25           it on --

1 A. 14th and Grand River.

2 Q. 14th and Grand River.

3 Now, is that before or after Martin Luther  
4 King?

5 A. I don't know.

6 Q. Okay.

7 Now, there came a point in time when you  
8 left the club with Delano, right?

9 A. Yes.

10 Q. And you had indicated that he had an old school Monte  
11 Carlo, right?

12 A. Yes.

13 Q. And there were, what, gold rims on it?

14 A. Yes.

15 Q. And a removable steering wheel?

16 A. Yes.

17 Q. What color was it?

18 A. The car itself was maroon.

19 Q. Maroon?

20 Anything else that was distinctive about  
21 that car that you remember?

22 A. No.

23 Q. All right.

24 Now, when you had left the club you said  
25 there was a conversation and one thing lead to another,

1 right?

2 A. Yes.

3 Q. When you say one thing lead to another what are you  
4 talking about?

5 A. We talked and I can't really remember how we got on that  
6 subject.

7 Q. Okay. What's that subject?

8 A. Of being intimate.

9 Q. Okay.

10 Do you know if you brought it up or he  
11 brought it up?

12 A. I can't remember.

13 Q. Okay. But it came up, right?

14 A. Yes.

15 Q. And this was on the way to the Coney Island or before you  
16 even decided to go to the Coney Island?

17 A. On the way to the Coney Island.

18 Q. All right. And how far is the Coney Island from Outcast?

19 A. Twenty, twenty-five minutes.

20 Q. Twenty-five minutes from Grand River and 14th?

21 A. I'm not a hundred percent. I'm guessing at that point.

22 Q. All right.

23 So you had no idea how long it would take  
24 to get you downtown?

25 A. No.



1 Q. All right.

2 That's why I was asking -- well, all  
3 right. Do you know where the intersection of Martin  
4 Luther King and Grand River would be?

5 A. No.

6 Q. All right. What about Grand River and Trumbull?

7 A. No.

8 Q. You don't -- you aren't familiar with that intersection  
9 as well?

10 A. No.

11 Q. All right.

12 What is the closest cross street to Grand  
13 River nearest to the Outcast that you know of?

14 A. 14th.

15 Q. Okay. Other than 14th?

16 MS. LOZEN: Judge, the cross streets, they  
17 said they --

18 THE COURT: How is that material?

19 MS. LOZEN: I don't know how that's  
20 relevant.

21 THE COURT: The objection is sustained.

22 MR. GLENN: Okay. All right.

23 THE COURT: We don't want to take a tour  
24 of the west side of the city of Detroit.

25 MR. GLENN: Okay. Just wanted to get some

1 kind of record.

2 THE COURT: Okay.

3 BY MR. GLENN (Continuing):

4 Q. How long were you in the car before the subject matter  
5 turned to intimacy?

6 A. Fifteen minutes.

7 Q. All right.

8 And were you driving that whole fifteen  
9 minutes?

10 A. He was.

11 Q. I mean, was the car moving that whole fifteen minutes?

12 A. Yes.

13 Q. And when the subject had turned to intimacy, all right,  
14 did his route on the street change?

15 A. Yes.

16 Q. All right. And do you remember where he went?

17 A. I can't remember the route.

18 Q. Okay.

19 Was he on the east side or west side? Do  
20 you know that?

21 A. We did go to the east side.

22 Q. What part of the east side?

23 A. Montclair.

24 Q. All right. And how long did it take you to get there?

25 A. About twenty minutes.

1 Q. Okay.

2 And you'd indicated that you believed that  
3 this was Delano's cousin's house or somebody else's  
4 house, right?

5 A. That's what he told me.

6 Q. All right. How long were you in that house?

7 A. Twenty, maybe thirty minutes.

8 Q. Twenty, thirty minutes? What time did you leave?

9 A. I don't know.

10 Q. Do you know what time you got there?

11 A. It was daylight.

12 Q. Okay.

13 So you left the club at five o'clock.  
14 That's the time it closed, right?

15 A. Yes.

16 Q. And you were in the car for about twenty minutes before  
17 the subject matter got to intimacy, right?

18 A. Yes.

19 Q. And I asked you how long it took you to get from -- after  
20 the subject matter turned to intimacy to this house that  
21 you had sex in, right?

22 A. Yes.

23 Q. How long did that take?

24 A. About twenty minutes.

25 Q. About twenty minutes.

1                   So that would have been somewhere in the  
2           neighborhood of about five forty, right?

3   A.    I can't remember.

4   Q.    Okay.

5                   So twenty minutes talking in the car about  
6           sex and twenty minutes to get to this house, that's forty  
7           minutes, right?

8   A.    Yes.

9   Q.    Forty minutes on top of five o'clock, that's five forty  
10          in the morning, right?

11   A.    Yes.

12   Q.    And you were inside of the house for about, what, twenty  
13          minutes?

14   A.    Twenty to thirty minutes.

15   Q.    Twenty to thirty minutes?

16                   All right. And that's when -- after those  
17          thirty minutes you left the house, right?

18   A.    Yes.

19   Q.    Now, while you were inside the house you indicated that  
20          you had protected sex, right?

21   A.    That's correct.

22   Q.    Okay.

23                   And there was no one else at the house at  
24          that time that you were aware of, right?

25   A.    That's correct.

1 Q. Now, after this incident involving the criminal act you  
2 were asked to go down to the police station to give a  
3 statement, right?

4 A. Yes.

5 Q. Did you tell the police about stopping off with Delano at  
6 this house and having sex with him?

7 A. I can't remember.

8 Q. All right.

9 MR. GLENN: May I approach, Judge?

10 THE COURT: Sure.

11 BY MR. GLENN (Continuing):

12 Q. Look at the top of the form. Is that your name on it?

13 A. That's my name.

14 Q. All right. And that's your statement?

15 A. Yes.

16 Q. Okay.

17 Now, on that statement do you list  
18 anywhere on that statement that you had stopped off and  
19 had consensual sex with Delano?

20 A. I can't even read this. All right. I can't read this.

21 Q. All right.

22 THE COURT: You don't see it in there?

23 THE WITNESS: The way it's written I can't  
24 really --

25 THE COURT: Okay. Well, you're going to

1           have to give it to somebody else.

2                       MR. GLENN: Okay. All right.

3           BY MR. GLENN (Continuing):

4 Q.       But you will agree that you gave a statement to the  
5           police, right?

6 A.       Yes.

7 Q.       And it would have been at 1300 Beaubien, right?

8 A.       I gave a statement to the police at the 7th Precinct  
9           which was Mack and Elmwood.

10 Q.       Okay.

11                       All right. And that would have been on  
12           September the 14th?

13 A.       Yes.

14 Q.       And about seven P.M.?

15 A.       Yes.

16 Q.       Okay. Do you have --

17                       (Hands raised)

18                       THE COURT: Yes, ma'am? Do you have a  
19           question? Okay. Well, the bailiff will get it from you  
20           and I'll read it and decide whether or not it's a  
21           question that can be asked, okay. Go ahead, Mr. Glenn.

22           BY MR. GLENN (Continuing):

23 Q.       Do you remember the officer that you gave your statement  
24           to, the name of the officer?

25 A.       No.

1 Q. No?

2 Okay. Now, after you left this house  
3 you'd indicated that you requested to go home, right?

4 A. That's correct.

5 Q. And the home that you're talking about is your house on  
6 Sheridan?

7 A. Yes.

8 Q. That's where you were residing with your grandmother?

9 A. Yes.

10 Q. And do you know how far away you were from your home from  
11 this cousin's house that you had sex with Delano?

12 A. Twenty-five minutes.

13 Q. All right.

14 A. Driving wise, twenty-five minutes.

15 Q. Okay.

16 And what were you basing that on, how long  
17 it would take you to get home?

18 A. Just a guesstimation.

19 Q. I asked you where you were, right?

20 A. Right.

21 Q. Okay.

22 And you said somewhere on the east side,  
23 right?

24 A. You asked me where did we stop at.

25 Q. Yes, at Delano's cousin's house?

1 A. Montclair.

2 Q. Montclair and the cross street?

3 A. The cross street is -- I can't remember.

4 Q. All right.

5 And how long had you been driving before  
6 Delano said he had to make a stop?

7 A. Less than five minutes.

8 Q. Okay.

9 And then it came to a point where he  
10 stopped on, what, the --

11 A. Weyher Street.

12 Q. Weyher Street? Had you been on that street before?

13 A. No.

14 Q. And you'd indicated that he had gone inside of a house,  
15 right?

16 A. Yes.

17 Q. And when he left out the car he left the car running,  
18 right?

19 A. Yes.

20 Q. And you said he was gone for, what, thirty, forty --

21 A. Thirty to forty minutes.

22 Q. All right.

23 At any point in time did you leave the car  
24 or go in to see what was taking so long?

25 A. No.



- 1 Q. All right. Did you find that to be unusual or troubling?
- 2 A. No.
- 3 Q. All right.
- 4                   So it didn't bother you at all that he was
- 5                   inside the house for that long?
- 6 A. No.
- 7 Q. All right. Anybody walking up and down the street --
- 8 A. No.
- 9 Q.       -- during that thirty or forty minutes?
- 10 A. No.
- 11 Q. Anybody on the street at all?
- 12 A. No.
- 13 Q. What about the houses, the front porch, anybody outside
- 14                   that you saw?
- 15 A. No.
- 16 Q. Was it daylight outside?
- 17 A. Yes.
- 18 Q. Was it a sunny day, rainy day?
- 19 A. Sunny.
- 20 Q. Now, there came a point in time that Delano came back and
- 21                   got inside of his car, right?
- 22 A. Yes.
- 23 Q. And you said that he drove down the street --
- 24 A. Yes.
- 25 Q.       -- to the end of the block?

- 1 A. Yes.
- 2 Q. Was it on the same block or was it on the next block?
- 3 A. Same block.
- 4 Q. Okay. So how many houses down did he drive?
- 5 A. I don't know.
- 6 Q. Half a block?
- 7 A. It's only a block long. I don't know how many houses
- 8 that was.
- 9 Q. Okay. So he drove to the end of the block, correct?
- 10 A. Yes.
- 11 Q. And you said that he got out of the car again at this
- 12 time, right?
- 13 A. Yes.
- 14 Q. And he went inside of a house, right?
- 15 A. Yes.
- 16 Q. Is that house on the same side of the street that the
- 17 other house was?
- 18 A. Yes.
- 19 Q. And would that have been on the driver's side or
- 20 passenger?
- 21 A. Passenger's side.
- 22 Q. Okay.
- 23 So he got out, went across the car and
- 24 then went inside the house?
- 25 A. Yes.

1 Q. Anybody outside on the porch when he was going inside of  
2 the house?

3 A. No.

4 Q. Did he appear to have keys to get inside of the house?

5 A. No.

6 Q. Anybody let him in?

7 A. I don't know.

8 Q. All right.

9 Were you looking at him when he was going  
10 up to the house?

11 A. I looked at him walk up on that porch and open up the  
12 door and that's when I saw the man coming down the alley.

13 Q. Okay.

14 All right. And how close to the car was  
15 the man walking down the alley when Delano was going  
16 inside of the house?

17 A. I don't know. He wasn't right next to it. Five feet,  
18 six feet.

19 Q. Okay.

20 A. I'm not sure.

21 Q. All right.

22 So do you remember seeing where this  
23 person came from? Did he come out of a house or was he  
24 just walking up the street?

25 A. I just seen him in the alley. I didn't see where he come

1 from.

2 Q. All right.

3 Now, any of the clothing that the person  
4 had on, had you recognized or seen it before?

5 A. No.

6 Q. All right.

7 This person's physical makeup, you said he  
8 was, what, thin?

9 A. Yes.

10 Q. Five eleven, six feet?

11 A. Five eleven, close to six.

12 Q. All right.

13 And about a hundred and fifty, a hundred  
14 and sixty pounds?

15 A. Yes.

16 Q. What were you basing that weight on?

17 A. He was slim. Slimmer build guy.

18 Q. All right.

19 And what about his age? How long did he  
20 appear to be?

21 A. Younger.

22 Q. All right. What does that mean?

23 A. I don't know.

24 Q. Okay.

25 A. He was young people, but people fool you. Some people

1 look younger are actually older.

2 Q. Okay.

3 And I believe you were asked whether or  
4 not he had facial hair, right?

5 A. Yes.

6 Q. All right. Did he have a mustache, goatee, sideburns?

7 A. No.

8 Q. All right. Was we clean shaven or --

9 A. Yes.

10 Q. -- or unshaven? Pardon?

11 A. Yes.

12 Q. His face, did he have razor bumps or any kind of  
13 bumpiness or any deformities?

14 A. No.

15 Q. All right.

16 Now, you said that you were able to see  
17 from his nose down, right?

18 A. Yes.

19 Q. Because he had the bill of the baseball cap, right?

20 A. Yes.

21 Q. Was he wearing any kind of glasses or anything like that?

22 A. No.

23 Q. Do you remember what type of hat he was wearing?

24 A. It was a baseball cap.

25 Q. Okay. Was it a Tiger hat --

1 A. No.

2 Q. -- or a Yankee hat?

3 A. I can't remember that.

4 Q. Was there an emblem or a logo on it that you remember?

5 A. I can't remember.

6 Q. Okay.

7 What about his clothing, did it have any  
8 logos or writing on it?

9 A. I can't remember.

10 Q. All right. Did he have on gloves at all?

11 A. No.

12 Q. Was he carrying anything?

13 A. No.

14 Q. Now, when he got inside the car you said he produced a  
15 handgun, right?

16 A. Yes.

17 Q. And you were asked where he got this gun from, right?

18 A. Yes.

19 Q. And you didn't see where the gun came from, did you?

20 A. No.

21 Q. All right.

22 So when he got inside the car he got in on  
23 the driver's side, right?

24 A. Yes.

25 Q. And he pointed the gun at you at that point in time,

1 right?

2 A. He stuck it between my legs and cocked it back and said  
3 he was going to shoot, give me your money.

4 Q. All right.

5 So he spoke to you when he got inside the  
6 car?

7 A. Yes.

8 Q. Okay.

9 And the first words that he uttered was --  
10 are what?

11 A. Give me your money or I'm gonna shoot.

12 Q. All right.

13 Those are what he said, give me your money  
14 or I'll shoot?

15 A. Uh-huh.

16 Q. All those words?

17 A. Yes.

18 Q. And when he said those words was he looking at you?

19 A. Yes.

20 Q. All right.

21 Now, you were right next to him in the  
22 front seat of the car, right?

23 A. Yes.

24 Q. All right.

25 And you said that he was able to reach

1 over to you and place the handgun in between your legs,  
2 right?

3 A. Yes.

4 Q. So you were only, what, about a foot away or even closer,  
5 right?

6 A. Yes.

7 Q. And at that close distance you weren't able to see his  
8 face?

9 A. I seen his face, but not -- I couldn't see all of it  
10 cause of that baseball cap.

11 Q. All right. Was he wearing glasses at all, sunglasses?

12 A. No.

13 Q. No? All right. Any oddities about his teeth?

14 A. I can't.

15 Q. Crooked teeth, decaying teeth, missing teeth?

16 A. I can't remember.

17 Q. All right.

18 Now, once he placed the gun in between  
19 your legs what happened then?

20 A. He cocked it.

21 Q. All right.

22 When you say he cocked it, do you mean he  
23 racked it?

24 A. Yeah.

25 Q. All right.



1                                Now, you said this was a .9 millimeter,  
2                                right?

3    A.        Yes.

4    Q.        All right.

5                                And I assume you're familiar with guns to  
6                                say .9 millimeter, right?

7    A.        Yes.

8    Q.        A semi-automatic gun, right?

9    A.        Yes.

10   Q.        And in order to cock the gun you have to rack it, right?

11   A.        Yes.

12   Q.        And racking it means pulling it back at the top, right?

13   A.        Yes. That's what we call cock the gun.

14   Q.        All right.

15                                So when he racked the gun or cocked the  
16                                gun he did it with two hands, right?

17   A.        Yes, he was holding the gun between my legs and he pulled  
18                                it back like that, like I'll shoot, give me your money.

19   Q.        All right.

20                                So the gun was between your legs while he  
21                                racked it?

22   A.        Yes.

23   Q.        Did a bullet eject when he racked it?

24   A.        No.

25   Q.        Are you sure?

1 A. Yes.

2 Q. Okay.

3 Now, at that point in time did he ask you  
4 to -- well, he asked for your money, right?

5 A. Yes.

6 Q. Did you give him your money at that time?

7 A. No.

8 Q. What did you do?

9 A. I was begging him not to shoot me.

10 Q. Okay. What happened then?

11 A. He put the car in gear and drove off.

12 Q. And do you remember what direction he was driving in?

13 A. Went across McClellan.

14 Q. Okay.

15 And how far across the street would that  
16 be from Weyher?

17 A. Right up the street.

18 Q. Right up the street?

19 A. Uh-huh.

20 Q. All right. Would that be a block away?

21 A. Weyher is here. He kitty-corner a little bit and we go  
22 straight across and that's McClellan the next street.

23 Q. All right.

24 A. And we went across McClellan and got to Belvidere and he  
25 made a left and he pulled right in front of a vacant lot.

1 Q. Okay. So he made a left on Belvidere?

2 A. Yes.

3 Q. And he stopped at a vacant lot?

4 A. Yes.

5 Q. Okay.

6 Now, in that area any pedestrians on the  
7 street that you saw?

8 A. No.

9 Q. Anybody on the front porches?

10 A. No.

11 Q. All right. Still daylight outside?

12 A. Yes.

13 Q. And do you have any idea what time of day it was at that  
14 point in time?

15 A. No.

16 Q. All right.

17 And how long had the person been in the  
18 car before you got to Belvidere?

19 A. I don't know.

20 Q. A minute, two minutes, five minutes?

21 A. It happened so fast.

22 Q. Okay.

23 All right. And once you got to Belvidere  
24 what happened then?

25 A. That's when he pulled out his penis and made me perform

1 oral sex on him.

2 Q. All right.

3 Now, going back to your statement that you  
4 gave to the police at the 7th Precinct they asked you  
5 what happened again, right? Did you tell them that he  
6 forced you to perform oral sex?

7 A. Yes.

8 Q. Are you sure?

9 A. I can't remember.

10 Q. Well, you told the truth on that day, right?

11 A. Yes.

12 Q. You told them everything that happened, right?

13 A. Yes.

14 Q. You're sure?

15 A. Yes.

16 Q. Okay.

17 Now, after he forced you to perform  
18 fellatio, what happened then?

19 A. He made me take my pants -- panties off and made me lay  
20 down and he got on top of me and he put his penis in my  
21 vagina.

22 Q. Now, when he got on top of you was he still wearing his  
23 baseball cap?

24 A. Yes.

25 Q. And he was on top of you facing you, right?

- 1 A. I turned my head.
- 2 Q. But he was on top of you, right?
- 3 A. Yes.
- 4 Q. You're face to face, right?
- 5 A. No, I turned my head.
- 6 Q. All right. You turned your head right, left?
- 7 A. To the right.
- 8 Q. And that's why you said you couldn't see his face?
- 9 A. Yes.
- 10 Q. And was he saying anything to you at that time?
- 11 A. No.
- 12 Q. And you said he put his penis in your vagina?
- 13 A. Yes.
- 14 Q. And he ejaculated, right?
- 15 A. Yes.
- 16 Q. And the sex act, how long did that take?
- 17 A. Minutes.
- 18 Q. Minutes?
- 19 All right. And when he ejaculated did he
- 20 ejaculate inside of you or on your clothes?
- 21 A. Inside.
- 22 Q. All right. After he ejaculated what happened then?
- 23 A. He got off of me.
- 24 Q. All right.
- 25 And when he got off of you were you

- 1 looking at his face then?
- 2 A. No.
- 3 Q. What were you looking at?
- 4 A. Putting my clothes on.
- 5 Q. Did he tell you to put your clothes on?
- 6 A. Yes.
- 7 Q. And when you say clothes you're talking about your
- 8 underwear and your pants?
- 9 A. Yes.
- 10 Q. Were those the only things that were taken off at the
- 11 time?
- 12 A. Yes.
- 13 Q. So you still had your shirt, blouse, brazier?
- 14 A. Yes.
- 15 Q. And you put on these clothes while you were inside of the
- 16 car, right?
- 17 A. Yes.
- 18 Q. And once you put your clothes on he asked for, what, your
- 19 jewelry?
- 20 A. My jewelry and my money. He told me to lay it on the
- 21 floor of the car.
- 22 Q. Pardon?
- 23 A. He asked for my jewelry and my money. He said, lay it on
- 24 the floor of the car.
- 25 Q. Okay. Where was the gun when this is going on?

1 A. He still had it in his hand.

2 Q. All right. The car's still running?

3 A. Yes.

4 Q. All right.

5 And once he took your jewelry and money he  
6 told you to get out of the car, right?

7 A. Yes.

8 Q. All right. And then he drove off, right?

9 A. Not immediately.

10 Q. All right.

11 When you say not immediately, what do you  
12 mean?

13 A. I got out of the car and I started walking. When I  
14 got -- when I walked all the way to the end of the corner  
15 and turned right then that's when the car was going to  
16 the left.

17 Q. All right.

18 And so you were walking, what, down  
19 Belvidere, right?

20 A. Yes.

21 Q. And you turned on, what, Mack?

22 A. Yes.

23 Q. And I believe you said you turned right, right?

24 A. Yes.

25 Q. And he turned left?

- 1 A. Yes.
- 2 Q. Now, Mack is a pretty busy street, right?
- 3 A. Yes.
- 4 Q. A lot of businesses on that street, right?
- 5 A. Yes.
- 6 Q. Gas stations?
- 7 A. Wasn't by a gas station.
- 8 Q. Okay. There's gas stations on Mack, though, right?
- 9 A. Yes.
- 10 Q. Convenience stores, little shops, correct? Did you stop
- 11 at any of those stops and tell anybody what happened?
- 12 A. No.
- 13 Q. Anybody walking down the street on Mack?
- 14 A. No.
- 15 Q. Now, Mack is a busy street, right?
- 16 A. Yes.
- 17 Q. And you're saying nobody was walking up the street?
- 18 A. No.
- 19 Q. You didn't ask anybody for help?
- 20 A. No.
- 21 Q. Now, you said you walked over to Ebony Jones' house,
- 22 right?
- 23 A. Yes.
- 24 Q. And I believe you said that was about four blocks away?
- 25 A. No.



- 1 Q. How far?
- 2 A. More -- it was more than four blocks.
- 3 Q. Okay. How far?
- 4 A. I don't know how many blocks. It was more than four.
- 5 Q. How long were you walking?
- 6 A. I don't know.
- 7 Q. So you were just walking?
- 8 A. Yes.
- 9 Q. And as you were walking were cars going by?
- 10 A. Yes.
- 11 Q. Were you passing any people?
- 12 A. No.
- 13 Q. So no one was on the street while you were walking?
- 14 A. No.
- 15 Q. And did you pass any businesses?
- 16 A. Yes.
- 17 Q. You didn't go inside any of those businesses and tell
- 18 anybody what happened?
- 19 A. Wasn't open.
- 20 Q. Okay.
- 21 No gas stations were open, no stores were
- 22 open?
- 23 A. From Belvidere to where I was walking at, no, it was no
- 24 gas stations there.
- 25 Q. Okay.

1 All right. Did you attempt to get help  
2 from anyone?

3 A. No.

4 Q. Any particular reason why you didn't try to get help?

5 A. I just wanted it to go away.

6 MS. LOZEN: Judge, again, I'm going to  
7 object about this line of questioning. It's been asked  
8 and answered.

9 THE COURT: Yeah, you're going over the  
10 same thing, Mr. Glenn.

11 MR. GLENN: Okay. All right.

12 THE COURT: Let's keep going forward.  
13 Don't go over the same thing.

14 MR. GLENN: Okay. Understood. Thank you.

15 BY MR. GLENN (Continuing):

16 Q. Now, when you got to Ebony's house, now, that was a  
17 co-worker, right?

18 A. Yes.

19 Q. And you told Ebony what happened, right?

20 A. Yes.

21 Q. And you initially said she didn't believe you, right?

22 A. Yes.

23 Q. What was your reaction when she said she didn't believe  
24 you?

25 A. I was outdone.

1 Q. All right.

2 And it became physical, a physical fight  
3 there, right?

4 A. Yes.

5 Q. How long were you at Ebony's house before this fight  
6 happened?

7 A. I don't know.

8 Q. And you got into a fight with a couple of people, right?

9 A. Yes.

10 Q. And I believe you said it was, what, Ebony's cousin or  
11 who?

12 A. Shonta and another girl.

13 Q. Okay.

14 What's the other girl -- is she a dancer  
15 as well?

16 A. No, I don't know her.

17 Q. Okay.

18 And do you remember what you were fighting  
19 about?

20 A. I can't remember.

21 Q. All right.

22 You can't remember what you were fighting  
23 about?

24 A. No.

25 Q. And there came a point in time you left Ebony's house,

- 1 right?
- 2 A. Yes.
- 3 Q. And the whole time you were at Ebony's house did you ask
- 4 anybody to call the police to take you to the hospital?
- 5 A. No.
- 6 Q. Anybody particular reason why?
- 7 A. I just wanted it to go away.
- 8 Q. Now, after you left Ebony's house you walked home, right?
- 9 A. Yes.
- 10 Q. And how far did you have to walk in order to get home on
- 11 Sheridan?
- 12 A. Four blocks.
- 13 Q. So it didn't take you long, right?
- 14 A. No.
- 15 Q. And as you were walking did you cross -- did you see
- 16 anybody on the street?
- 17 A. No.
- 18 Q. Didn't cross any businesses at all?
- 19 A. No.
- 20 Q. And so when you got home that's when you told your
- 21 grandmother, right?
- 22 A. Yes.
- 23 Q. What had happened, right?
- 24 A. Yes.
- 25 Q. And you were given peroxide, right?

1 A. Yes.

2 Q. And you took a shower, right?

3 A. Yes.

4 Q. Now, what did you do with the peroxide?

5 A. Rinsed my mouth.

6 Q. All right. Did you put the peroxide anywhere else?

7 A. No.

8 Q. You didn't put it in your vagina or in your vaginal area?

9 A. No.

10 Q. All right.

11 Now, when you took a shower did you wash  
12 your vaginal area?

13 A. Yes.

14 Q. And did you use any type of body wash or anything like  
15 that?

16 A. Bar soap.

17 Q. Bar soap?

18 And after you took your shower you changed  
19 your clothes, right?

20 A. Yes.

21 Q. Now, what happened to the clothes you were wearing during  
22 the incident?

23 A. I left 'em on my bedroom floor.

24 Q. All right.

25 And there came a point in time where I

- 1 believe you said where your sister was called?
- 2 A. I called her.
- 3 Q. You called her? How did you call her?
- 4 A. By phone.
- 5 Q. Okay. Whose phone did you use?
- 6 A. My grandmother's.
- 7 Q. Is that a landline phone?
- 8 A. Yes.
- 9 Q. Or cellphone?
- 10 A. Landline.
- 11 Q. And your sister came to your grandmother's house, right?
- 12 A. Yes.
- 13 Q. How long did it take her to get there?
- 14 A. I can't remember.
- 15 Q. Now, did you tell anybody -- did you tell your sister
- 16 that you had bathed, taken a shower?
- 17 A. I can't remember.
- 18 Q. Did you tell the police you had taken a shower?
- 19 A. I can't remember.
- 20 Q. Did they ask you?
- 21 A. I can't remember.
- 22 Q. All right.
- 23 And you were taken to Receiving Hospital,
- 24 right?
- 25 A. Yes.

1 Q. Do you remember what time you got to Receiving Hospital?

2 A. It was night.

3 Q. Okay. It was dark outside then, right?

4 A. Yes.

5 Q. And they did a physical examination of you, right?

6 A. Yes.

7 Q. And before they did the examination they asked you some  
8 questions, right?

9 A. Yes.

10 Q. All right.

11 And one of the questions was, when was the  
12 last time you had sex, right?

13 A. Yes.

14 Q. What'd you tell 'em?

15 A. I can't remember.

16 Q. Did you remember Delano?

17 A. I remembered Delano.

18 Q. Okay.

19 A. But when I told 'em everything I don't know was it  
20 written or --

21 Q. That's why I'm asking, what did you tell them?

22 A. I told them I had consensual sex.

23 Q. You did?

24 A. Yes.

25 Q. And did they ask you when?

- 1 A. Yes.
- 2 Q. What did you tell them?
- 3 A. September 14th.
- 4 Q. You're sure?
- 5 A. Positive.
- 6 Q. Now, after you left the hospital did you go anywhere?
- 7 A. I went back to -- I went to my sister's house.
- 8 Q. And your sister's house is located where?
- 9 A. On French Road.
- 10 Q. And you had indicated that you didn't want to go back to
- 11 your grandmother's house because of his car, right?
- 12 A. That's correct.
- 13 Q. Delano's car, right?
- 14 A. That's correct.
- 15 Q. Now, did you tell the police anything about this car
- 16 being taken?
- 17 A. I told 'em that I didn't want him to think that I took
- 18 his car.
- 19 Q. All right. Did anybody accuse you of taking his car?
- 20 A. No.
- 21 Q. Did you hear from Delano or the police regarding Delano's
- 22 car?
- 23 A. No.
- 24 Q. Now, you had said you had seen Delano every day up until
- 25 the day of this incident, right?



1 A. Yes.

2 Q. And for months he was driving this car, right?

3 A. Yes.

4 Q. And it's your testimony here that this car was taken by

5 the person who raped you, right?

6 A. Yes.

7 Q. And it wasn't Delano, right?

8 A. That's correct.

9 Q. And you hadn't seen that car 'til, what, months later,

10 right?

11 A. Yes.

12 Q. And Delano hadn't contacted you?

13 A. No.

14 Q. Or the police hadn't contacted you regarding this car?

15 A. No.

16 Q. Did you attempt to tell anybody what happened with this

17 car?

18 A. I explained the situation to them as to when I was raped

19 and the guy took off in the car. That's it.

20 Q. All right.

21 Now, you didn't go back up to the Outcast

22 club, right?

23 A. No.

24 Q. Did you phone them and say -- tell them what happened?

25 A. No.

1 Q. Did they call you and ask why you weren't there?

2 A. No.

3 Q. Now, after this incident there came a point in time where  
4 you were introduced to Mr. Jemison, right?

5 A. Yes.

6 Q. And that was in the year, what, about 2000?

7 A. 2000.

8 Q. All right.

9 And so in between the year 2000 up until  
10 now how many times have you seen Mr. Jemison?

11 A. I only saw him in 2000.

12 Q. Pardon?

13 A. I only saw him in 2000.

14 Q. Just that one time?

15 A. A few times.

16 Q. All right. And I'm talking about between 2000 and --

17 A. I only seen him in --

18 Q. -- 2015?

19 A. In the year 2000 only.

20 Q. 2015?

21 You hadn't seen him any other time during  
22 that period of time?

23 A. Until we came to court.

24 Q. All right.

25 So you were introduced to him in 2000 and

1           when you came to court, that's the only other time you  
2           seen him?

3   A.     Yes.

4   Q.     You're sure?

5   A.     I only seen him in the year 2000 when I was introduced to  
6           him. I hadn't seen him none after that.

7   Q.     Okay. You're sure?

8   A.     Yes.

9                         THE COURT: Well, you've asked her that,  
10           counsel. That's the third time you asked her that.

11                        MR. GLENN: All right. Okay.

12   BY MR. GLENN (Continuing):

13   Q.     And --

14                        MR. GLENN: That's all I have, your Honor.

15                        THE COURT: Any redirect?

16                        MS. LOZEN: Briefly, Judge.

17                        THE COURT: Make it brief. Come on,  
18           counsel.

19                        REDIRECT EXAMINATION

20   BY MS. LOZEN:

21   Q.     You told us that you only saw Mr. Jemison a few times in  
22           the year 2000?

23   A.     That's correct.

24   Q.     And then is there a reason why you did not continue to  
25           see his family?

1 A. I don't have to deal with his family. That's between my  
2 sister and his brother.

3 Q. Okay. So you didn't associate with his family?

4 A. No.

5 Q. Okay. You left it between your sister and her --

6 A. Yes.

7 Q. -- child's father?

8 THE COURT: Well, I think we're going far  
9 afield now, Miss Lozen.

10 MS. LOZEN: Thank you, Judge.

11 BY MS. LOZEN (Continuing):

12 Q. And when you did meet him in the year 2000 the reason you  
13 didn't see each other is not because you had a grudge  
14 against him or anything like that?

15 A. No, no grudge.

16 Q. Okay.

17 MS. LOZEN: Nothing further, Judge.

18 THE COURT: Okay. You may step down.

19 MS. LOZEN: Judge, there was a juror  
20 question?

21 THE COURT: Well, I'm going to deal with  
22 that later.

23 MS. LOZEN: Yes.

24 THE COURT: Let me deal with the judicial  
25 stuff. You deal with your prosecution.

1 MS. LOZEN: Thank you, Judge.

2 THE COURT: You can step down.

3 (11:53 A.M. witness excused)

4 THE COURT: All right. Ladies and  
5 gentlemen of the Jury, we're going to allow you to go to  
6 lunch now. You can come back at twelve thirty and as I  
7 indicated, I may stop at two o'clock, okay. Ma'am, with  
8 your question, I have to consult with the attorneys,  
9 okay? All right.

10 COURT OFFICER: All rise.

11 THE COURT: You all can go out, too. They  
12 got a place down there, but I wouldn't -- it's kind of  
13 high.

14 (11:54 A.M. the jury left the courtroom)

15 MS. LOZEN: Do you want us to approach?

16 THE COURT: No, I was going to let you all  
17 look at it.

18 MS. LOZEN: Sure.

19 COURT OFFICER: You may be seated.

20 THE COURT: Okay. Let Mr. Glenn see it.  
21 Let Mr. Glenn see it. It's only three words on it. It  
22 shouldn't be taking you that long.

23 MS. LOZEN: The handwriting is a little  
24 bit rough, Judge.

25 THE COURT: I know. I can't read the last

1 word.  
2 COURT OFFICER: They're knocking. All  
3 rise.  
4 (Whereupon the jury passed from the  
5 Jury room to hallway for lunch recess)  
6 THE COURT: Ma'am -- let the rest of the  
7 jurors go -- can you hold it for just a moment. Okay.  
8 Give her the note, Miss Lozen, so she can interpret it  
9 for us. Could you read to us what you're asking in that  
10 note?  
11 JUROR: Should this statement be put into  
12 evidence?  
13 THE COURT: Okay. We'll deal with it.  
14 Thank you, very much.  
15 JUROR: Would you like to know which one?  
16 THE COURT: We really don't know which  
17 one, do we, Miss Lozen and Mr. Glenn? I think she's put  
18 all of 'em into evidence, haven't you?  
19 MR. GLENN: No. I know what she's talking  
20 about.  
21 THE COURT: Well, let's us deal with it  
22 without you. Go ahead.  
23 JUROR: Thank you.  
24 (11:55 A.M. the juror left the courtroom)  
25 COURT OFFICER: You may be seated.

1 THE COURT: Do you all know which ones?

2 MS. LOZEN: Well, if she's referencing the  
3 victim's statement --

4 MR. GLENN: That's what she's talking  
5 about.

6 MS. LOZEN: -- I think that would be  
7 hearsay.

8 THE COURT: But you know, the rule says  
9 that if I don't ask you all to ask the question or answer  
10 the question is do we just leave it alone and I instruct  
11 them that they shouldn't let that interfere with their  
12 deliberations in any manner?

13 MS. LOZEN: I agree so I don't believe  
14 this question is a proper question.

15 THE COURT: Right. So I would just leave  
16 it alone and then at the end when I instruct the jury,  
17 I'll note that it was in there.

18 MS. LOZEN: Correct.

19 THE COURT: All right.

20 MS. LOZEN: Would you like me to return  
21 this?

22 THE COURT: Yeah, we have to put it in the  
23 file. She put a date and a time on it.

24 MS. LOZEN: Correct.

25 THE COURT: Okay. All right. I think you

1 mess it up when you let them start asking questions.

2 Okay. We'll be back at twelve thirty.

3 MR. GLENN: Just one administrative thing.

4 THE COURT: What is that?

5 MR. GLENN: Regarding her statement I  
6 would ask the People, if they don't want to bring it in,  
7 in their case in chief, I would ask the Investigator  
8 Wasik be made available. That's the person that took  
9 this complainant's statement.

10 THE COURT: Is he still on the police  
11 force?

12 MS. LOZEN: No, he's not with the police  
13 force.

14 THE COURT: Where is he? Can we get him?

15 MS. LOZEN: The officer in charge is  
16 indicating that he does not have a location for Officer  
17 Wasik. This is the first time that I've been told that  
18 defense counsel wants Officer Wasik.

19 THE COURT: Well, we should try to get him  
20 based on the question. It seems to be a question unless  
21 you all can stipulate to something. Of course you want  
22 to say that she didn't tell the police officer that? Is  
23 that what you're pushing for?

24 MR. GLENN: Exactly.

25 MS. LOZEN: Judge, to begin with, I put



1 him on the witness list as he's a res gestae witness.

2 THE COURT: Yes.

3 MS. LOZEN: But I never received a witness  
4 list from defense counsel. He clearly had the statement  
5 from the victim since this case began in October or  
6 November. I can't recall when the preliminary exam was.

7 THE COURT: Was he a Detroit police  
8 officer or a --

9 MS. LOZEN: He was a Sex Crimes officer,  
10 if I'm not mistaken, Judge.

11 THE COURT: Well, was he a Detroit police  
12 officer?

13 MS. LOZEN: That's correct.

14 THE COURT: Well, the Detroit Police  
15 Department would know where he is because he gets a  
16 pension from here.

17 MS. LOZEN: Then, Judge --

18 THE COURT: Somebody can find him.

19 MS. LOZEN: -- it's just that we're in the  
20 middle of trial and I guess I wish this would have been  
21 brought to our attention.

22 THE COURT: I wish it would have, too,  
23 but --

24 MS. LOZEN: -- a long time ago.

25 THE COURT: -- but he didn't know that she

1 was going to get on there and say that she did all these  
2 things that she told the police officer.

3 MS. LOZEN: Well, she testified at the  
4 preliminary exam.

5 THE COURT: Counsel, I can't be concerned  
6 about the preliminary exam. I don't know what happened  
7 there.

8 MS. LOZEN: I'm saying he was on notice,  
9 is what my point is, but what I can do is I can make  
10 efforts to locate him, but I can't be held to that.

11 THE COURT: Well, I think he can be  
12 notified -- I mean, I think that he can be found cause  
13 he's getting a pension from the city of Detroit. Okay.  
14 Let's step aside.

15 (12:00 noon lunch recess taken)

16 (Whereupon another cases was heard)

17 (12:46 P.M. back on record)

18 (12:46 P.M. the jury was brought into  
19 The courtroom)

20 COURT OFFICER: You may be seated.

21 THE COURT: Okay. Miss Lozen, do you  
22 stipulate the jury is present and in their proper seats?

23 MS. LOZEN: Yes, Judge.

24 THE COURT: Mr. Glenn?

25 MR. GLENN: Yes, your Honor.

1 THE COURT: Okay. We may proceed. You  
2 can call your next witness.

3 MS. LOZEN: The People call Sergeant David  
4 Dehem.

5 COURT CLERK: Stand right here, raise your  
6 right hand and face the Judge.

7 \* \* \*

8 S E R G E A N T D A V I D D E H E M  
9 having been first duly sworn in and by the Court at 12:46  
10 P.M., was examined and testified upon his oath as  
11 follows:

12 THE COURT: Do you swear the testimony  
13 you're about to give before this Court shall be the truth  
14 and nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 THE COURT: Give him your name and take a  
17 seat in the chair.

18 THE WITNESS: David Dehem, D-e-h-e-m.

19 THE COURT: You may proceed, counsel.

20 MS. LOZEN: Thank you, Judge.

21 DIRECT EXAMINATION

22 BY MS. LOZEN:

23 Q. Good afternoon, sir.

24 A. Good afternoon.

25 Q. Would you state your name for the record?

1 A. David Dehem.

2 Q. And, Mr. Dehem, how are you employed?

3 A. I'm employed with the city of Detroit Police Department.

4 Q. And are you of a particular rank?

5 A. Yes, I'm a sergeant.

6 Q. Okay.

7 How long have you been with the Detroit  
8 Police Department?

9 A. Twenty-three years.

10 Q. And are you presently assigned anywhere?

11 A. Yes, I'm assigned to Property Control.

12 Q. How long have you been with Property Control?

13 A. Five years.

14 Q. And as a sergeant are you one of the supervisors of the  
15 Property Control?

16 A. That is correct.

17 Q. Okay.

18 Now, do you have any responsibility as  
19 relates to being at Property Control?

20 A. We supervise the officers that handle the intake,  
21 distribution of evidence. We also do it ourselves.

22 Q. So essentially the officers bring you the evidence and  
23 you check it in?

24 A. Correct.

25 Q. Okay.

1 And is there a tracking system that you  
2 use to track this evidence?

3 A. Yes, there is.

4 Q. Okay. And you're familiar with this tracking system?

5 A. Yes, I am.

6 Q. Now, this tracking system you're talking about, was this  
7 tracking system in existence in 1996?

8 MR. GLENN: Objection. He's only been  
9 there for six years. How can he talk about 1996?

10 THE COURT: Yeah, how can he talk about in  
11 1996, counsel?

12 MS. LOZEN: He had a record, Judge, and if  
13 I could lay -- I'll just lay a foundation.

14 THE COURT: Well, lay a foundation then.

15 BY MS. LOZEN (Continuing):

16 Q. Are you familiar with the tracking system that was used  
17 in 1996?

18 A. I am.

19 Q. And there was a system, in fact, in place, correct?

20 A. Correct.

21 Q. And you said -- was this system in place -- the current  
22 system that you have, is there a name to it?

23 A. The current system is called Tracker. The previous  
24 system was the IBRSYS system.

25 Q. Is that an acronym for something, if you know, or what is

1 the acronym?

2 A. IBRSYS. It's an IBM based system.

3 Q. Oh, IBM based?

4 A. Yes.

5 Q. Okay. When did the new system come into place?

6 A. December 15th, 2014.

7 Q. And when that new system came into place what happened to  
8 the old system?

9 A. All the records from the previous system were downloaded  
10 into the new system.

11 Q. So using the new system because they were downloaded can  
12 you now access the old records?

13 A. Yes.

14 Q. Okay.

15 And then as it relates to this record are  
16 you able to tell us like as far as storing the evidence  
17 is concerned has that changed, how the evidence is  
18 stored?

19 A. No, the evidence is stored in the same manner. It may be  
20 moved from a basic location to another location to  
21 consolidate.

22 Q. Okay.

23 And are you at the property section  
24 also -- do you also cover rape kits that would come in?

25 A. Yes, ma'am.

1 Q. Okay.

2 And are the rape kits stored at the  
3 Detroit police property section?

4 A. Yes.

5 Q. And then can you tell us -- just take us through when an  
6 officer brings a rape kit to the property section how is  
7 it logged and where was it taken to?

8 A. Generally they would be picked up by an officer from the  
9 Sex Crimes Unit from various locations, hospitals,  
10 women's centers. They're brought to us generally in the  
11 mornings. We take them and they're given an evidence tag  
12 number. That's put into the computer system. They're  
13 given a location and then the officers take it and put it  
14 in the location.

15 Q. Okay.

16 And this property room that you have, who  
17 has access to the property room?

18 A. Only Property Control officers, so the other sergeant and  
19 myself and currently we have one full-time officer and  
20 three part-time officers.

21 Q. And so a regular officer off the street can't even go  
22 into the property room?

23 A. No, ma'am.

24 Q. And so civilians also are not allowed into the property  
25 room?

1 A. Correct.

2 Q. And once a piece of evidence, say a rape kit, is set into  
3 property, unless somebody checks it out it essentially  
4 will stay there?

5 A. Correct.

6 Q. And so can you tell me are you familiar -- you said to us  
7 that you are familiar with the records that had been  
8 stored?

9 A. Yes.

10 Q. And then as it relates to a victim by the name of Talisha  
11 Sams were you able to pull up her record relating to her?

12 A. The record I would access when it was requested would be  
13 given by the evidence tag itself.

14 Q. Okay.

15 And did the evidence tag associate with  
16 the victim by the name of Talisha Sams?

17 A. Yes.

18 Q. Okay.

19 And did you, in fact, pull up a record  
20 that shows that a rape kit was received regarding Talisha  
21 Sams?

22 A. Yes, I did.

23 Q. And was it placed on an evidence tag?

24 A. Yes, it was.

25 Q. Do you know that evidence tag number?



- 1 A. Yes, if I can reference, please?
- 2 Q. If that would refresh your memory as to evidence tag  
3 number?
- 4 A. Yes, it would.
- 5 Q. Please do?
- 6 A. The evidence tag was E, as in Edward, 28034496.
- 7 Q. Does it indicate who it was entered by?
- 8 A. It was initiated by a Flora Humphrey.
- 9 Q. And does it say where this piece of evidence was seized  
10 from?
- 11 A. Detroit Receiving Hospital.
- 12 Q. And does it give a date?
- 13 A. It's usually referred to as a seized date and that would  
14 be 9-17 of 1996.
- 15 Q. And so do you know when this piece of evidence was  
16 checked into Detroit property?
- 17 A. It came to Property Control on September 18th, 1996.
- 18 Q. And it was checked into property. Do you have any record  
19 of it being checked out of property?
- 20 A. Yes, I do. December 10th, of 2013 it was sent with a  
21 batch of other evidence to Sorenson Forensics for  
22 testing.
- 23 Q. So from September 18th, of 1996 to December 10th, of 2013  
24 the rape kit essentially sat at the Detroit police  
25 property section?

1 A. Correct.

2 Q. And you indicated to us that no one else was allowed to  
3 go into that room to move it around?

4 A. Correct.

5 Q. Now, if somebody wanted to check that out, if somebody  
6 did want to check that rape kit out, would it be  
7 documented in the records?

8 A. Yes, it would.

9 Q. And then you indicated that Sorenson Forensics, the rape  
10 kit was checked out for testing, correct?

11 A. Correct.

12 Q. Do you know how it got to Sorenson Forensics?

13 A. I believe --

14 MR. GLENN: Objection. That calls for  
15 speculation.

16 THE COURT: Yeah, he can just say it was  
17 checked out unless he actually took it there --

18 MS. LOZEN: Well, I believe the officer --

19 THE COURT: -- unless you can lay a  
20 foundation for it.

21 BY MS. LOZEN (Continuing):

22 Q. Do you know how it got to Sorenson Forensics?

23 A. I believe it was United --

24 MR. GLENN: Objection.

25 THE COURT: He says he believes. Do you

1 actually know what happened -- how it got there or are  
2 you just --

3 THE WITNESS: United Parcel Service, sir.

4 THE COURT: Okay. Well, you put it in  
5 United Parcel Service?

6 THE WITNESS: Yes, sir.

7 THE COURT: Okay. He can say that.

8 BY MS. LOZEN (Continuing):

9 Q. So UPS took it from Detroit property to Sorenson  
10 Forensics?

11 A. Yes.

12 Q. And then from Sorenson Forensics did you receive it back  
13 after it was sent back from Sorenson?

14 A. Yes, we did.

15 Q. And do you know the date that occurred?

16 A. Yes. May I refresh my memory here?

17 Q. If that would refresh your memory, please.

18 A. It actually came back on February 8th, of 2016. It was  
19 returned to the rape kit room.

20 Q. And then after February 8th, of 2016 has it been moved  
21 since?

22 A. No, ma'am.

23 Q. Now, you gave us the evidence tag number and you told us  
24 that it was seized on September 17th, of 1996 from  
25 Detroit Receiving Hospital. Was there an SU number or

1           like a Sex Crimes Unit number on that as well, if you  
2           know?

3   A.     Yes, I believe they gave it a description number of  
4           96-2005.

5   Q.     So if the victim was assaulted on September 14th and it  
6           was collected on September 17th, of 1996 to your  
7           knowledge do you know what happened from the 14th to the  
8           17th?

9   A.     No, I do not.

10                       MS. LOZEN: Nothing further, Judge.

11                       THE COURT: Counsel.

12                               CROSS EXAMINATION

13           BY MR. GLENN:

14   Q.     Now, it's my understanding that you were exclusively at  
15           the evidence storage area, right?

16   A.     From July of 2011 I believe it was, yes.

17   Q.     Yeah, currently right now?

18   A.     Oh, yes, right now, yes.

19   Q.     So your duties do not entail going out and tagging  
20           evidence or placing it on evidence and then taking it  
21           back to the storage unit?

22   A.     No.

23   Q.     All right.

24                       Officers collect this evidence, place it  
25           on evidence, put a tag on it and then bring it to your

- 1 facility, right?
- 2 A. Correct.
- 3 Q. And in this area you had indicated that you received some
- 4 material from Officer Flora Humphrey, right?
- 5 A. I believe it's Flora Humphrey. I was not there at the
- 6 time.
- 7 Q. All right. That's what the records indicate, right?
- 8 A. Let me be exact here.
- 9 Q. It looks like the person who exactly brought it down
- 10 would be Investigator Howard Brown for Sergeant Humphrey
- 11 according to the record here?
- 12 A. Okay.
- 13 It was Howard Brown who delivered it
- 14 physically apparently.
- 15 Q. Okay. And that was for Officer Humphrey?
- 16 A. Correct.
- 17 Q. Now, but you don't know who actually collected that
- 18 material, do you, and placed it on evidence, what officer
- 19 did that?
- 20 A. No.
- 21 Q. Okay.
- 22 Your records wouldn't indicate any of that
- 23 at all, right?
- 24 A. No.
- 25 Q. It would just be -- you would only pick it up when an

1 officer actually takes that material for storage in  
2 evidence, right?

3 A. And delivers to us, correct.

4 Q. Delivers it to you, right.

5 Okay. But now for this evidence tag  
6 number that you had read off, you don't have anything to  
7 do with tagging that?

8 A. No.

9 Q. Okay.

10 So that's already tagged before it gets  
11 there, right?

12 A. Correct.

13 MR. GLENN: No further questions.

14 THE COURT: All right. Anything further?

15 MS. LOZEN: No, Judge.

16 THE COURT: Step down.

17 (11:00 A.M. witness excused)

18 THE COURT: Call your next witness.

19 MS. LOZEN: The People call Officer  
20 Clarence Bennett.

21 COURT CLERK: Raise your right hand and  
22 face the Judge, please.

23

24

25

\* \* \*

P. O. C L A R E N C E   E D W A R D   B E N N E T T, Jr  
having been first duly sworn in and by the Court at 1:00  
P.M., was examined and testified upon his oath as  
follows:

THE COURT: Do you swear the testimony  
you're about to give before this Court shall be the truth  
and nothing but the truth, so help you God.

THE WITNESS: I do.

COURT CLERK: Give your name to the Court  
Reporter.

THE WITNESS: My name is Clarence Edward  
Bennett.

MS. LOZEN: May I, Judge?

THE COURT: Sure. Please do.

MS. LOZEN: Thank you.

DIRECT EXAMINATION

BY MS. LOZEN:

Q. Good afternoon, sir.

A. Good afternoon.

Q. Would you state your name for the record?

A. Clarence Edward Bennett, Jr.

Q. And, sir, where were you working at on September 14th, of  
1996?

A. 7th Precinct.

- 1 Q. And was that for the --
- 2 A. Detroit Police Department.
- 3 Q. -- Detroit Police Department? And were you assigned to
- 4 the 7th Precinct?
- 5 A. Yes.
- 6 Q. What were your duties on that date?
- 7 A. Just inside, just taking the reports that come in.
- 8 Q. So when you say the reports that come in, do you mean
- 9 people that come in off the street and want to file a
- 10 report?
- 11 A. Yes.
- 12 Q. Okay.
- 13 And did you have -- tell us what kind of
- 14 responsibilities came with that?
- 15 A. Just the basic -- anyone that came in and wanted to file
- 16 a report of any crime that was committed my job at that
- 17 time was just to get the information and pass it along if
- 18 need be.
- 19 Q. Thank you.
- 20 And on September 14th, of 1996 did
- 21 something happen that brings you to court today?
- 22 A. Yes, a young lady came to our station, wanted to report a
- 23 CSC crime. At that time I took the information.
- 24 Q. Thank you. This young lady, did she have a name?
- 25 A. Yes. Going back to my notes, Talisha Sams, if I'm saying



1           that correctly.

2   Q.     Could you spell it for us if need be?

3   A.     Looking at T-a-l-i-s-h-a, last name, S-a-m-s.

4   Q.     Thank you. And you said this was at the 7th Precinct?

5   A.     Yes.

6   Q.     Do you remember where the 7th Precinct was located?

7   A.     3300 Mack.

8   Q.     And you indicated the nature of the report was -- what  
9           was the nature of the report?

10  A.     She stated she was sexually assaulted.

11  Q.     Okay.

12                         And when somebody comes in and you said  
13           you were working essentially the desk to take these  
14           reports, is this an open common area room or do you have  
15           a private office?

16  A.     No, it's a common area. A individual would walk in,  
17           directly come to the desk. By the set of circumstances  
18           we take the initial report at that time and then we send  
19           it over to whatever unit it will go through further  
20           investigation.

21  Q.     And when you say you're taking the initial report or the  
22           initial information are you trying to get all the details  
23           or are you just trying to collect some information?

24  A.     Collecting the basics of what transpired as much as we  
25           can to help out to kind of speed the process up.

- 1 Q. I see. Thank you.
- 2 And during -- on this report that you took
- 3 do you document anywhere if a suspect was named?
- 4 A. Yes.
- 5 Q. And was a suspect named as it relates to the perpetrator?
- 6 A. Going back to my notes, yes. First name of Delano.
- 7 That's D-e-l-a-n-o.
- 8 Q. Was Delano a friend or was he the perp?
- 9 A. Looks like he was a friend. He was an unknown male as
- 10 far as the perpetrator.
- 11 Q. The perpetrator was an unknown male. So she -- the
- 12 victim at the time, Miss Sams, did not give you a name?
- 13 A. At that -- no, not then.
- 14 Q. Not at the time, okay. Did she, in fact, give you a
- 15 description?
- 16 A. The description I have here as far as unknown black male
- 17 in his twenties. Most of the description I have on my
- 18 initial report.
- 19 Q. Okay.
- 20 Does your report indicate he's about a
- 21 hundred and forty pounds?
- 22 A. Yes.
- 23 Q. Okay. Is it handwritten, sir?
- 24 A. Yes, let me --
- 25 Q. Okay. Not all reports are typed?

1 A. Correct.

2 Q. Okay. Thank you.

3 A. I have more to add to that --

4 Q. Okay.

5 A. -- as far as description-wise.

6 Q. So your report does include more of a description?

7 A. Yes.

8 Q. Okay. And what description did you receive?

9 A. Black male around five ten, one hundred and forty pounds  
10 with a mustache, brown eyes wearing a dark green jacket  
11 with a hoody, blue pants, khaki type, my report, beige  
12 shoes.

13 Q. Okay.

14 And does it indicate whether a weapon was  
15 used? Does your report indicate whether a weapon was  
16 used?

17 A. Yes, a nickel plated semi-automatic.

18 Q. Would that be a gun?

19 A. Yes.

20 Q. Now, once -- and then do you take a narrative from anyone  
21 who comes in as relates to a summary of what happened to  
22 them?

23 A. Yes.

24 Q. Okay.

25 And then once the narrative was taken from

1           that individual do you then like complete your report or  
2           do you pass your report along?

3   A.     In this particular case it was completed on my end and  
4           then I called Sex Crimes and then Control Center.

5   Q.     And then after the report is given to Sex Crimes do you  
6           have any further responsibilities?

7   A.     After that, no.

8   Q.     Okay.

9                         So you essentially took the report and  
10           then you passed the information along?

11   A.     Yes.

12   Q.     And now when somebody -- you told us that the reports are  
13           taken in the general -- at the general desk. As relates  
14           to someone who is reporting a CSC do you -- you still  
15           take that out in the open? You don't try to move them to  
16           another private room?

17   A.     Yes, we do.

18   Q.     Does it depends on the circumstances?

19   A.     Yes, twenty years ago I cannot recall if the -- the way  
20           the 7th Precinct was designed a few rooms was to the left  
21           as you come into the building, but I have no recollection  
22           if we went to the back or wherever.

23   Q.     Okay.

24                         And are you still working for the Detroit  
25           Police Department?

- 1 A. No, I do not.
- 2 Q. Where are you presently employed?
- 3 A. City of Huntington Woods Public Safety.
- 4 Q. Okay. Is that the Huntington Woods Police Department?
- 5 A. Yes, it is.
- 6 Q. Okay.
- 7 And does the report reflect if anything
- 8 was taken from the complainant?
- 9 A. Yes, it does.
- 10 Q. And what was taken from the complainant?
- 11 A. She advised me at the time three rings worth forty
- 12 dollars a piece, a Herringbone worth three hundred and
- 13 fifty dollars.
- 14 Q. And do you know on the first page if any cash was taken
- 15 or any money?
- 16 A. She also did state that fifty-five dollars in cash was
- 17 taken in assorted bills.
- 18 Q. And that's documented in your report?
- 19 A. Yes.
- 20 Q. And as it relates to the -- does your report reflect if
- 21 there was a relationship between the victim and the
- 22 perpetrator?
- 23 A. No. It was unknown, ma'am.
- 24 Q. They were unknown, okay.
- 25 MS. LOZEN: Okay. Nothing further.

1 THE COURT: Mr. Glenn.

2 MR. GLENN: Thank you.

3 CROSS EXAMINATION

4 BY MR. GLENN:

5 Q. Now, the report that you took on this incident is, what,  
6 two pages?

7 A. Yes.

8 Q. Okay. And all the information on the street you wrote?

9 A. Yes.

10 Q. All right. Did Miss Sams write anything on this sheet?

11 A. No.

12 Q. Okay.

13 And when you were taking the information  
14 down were you asking questions and was she giving you  
15 answers?

16 A. Yes.

17 Q. Okay.

18 I'm talking about -- okay. Now, did you  
19 ask her what happened to her?

20 A. Yes.

21 Q. Okay.

22 And did she give you a description or an  
23 account of what took place?

24 A. Yes.

25 Q. What actually took place?

1 A. Yes.

2 Q. Okay.

3 And in her account of what she said  
4 allegedly took place she said that she was raped,  
5 correct?

6 A. Yes.

7 Q. Penis in vagina, right?

8 A. Right.

9 Q. At any time did she mention to you that she was forced to  
10 give fellatio or oral sex?

11 A. No, not to me, no.

12 Q. Okay.

13 And in the report did she give any type of  
14 account of whether or not she had any type of consensual  
15 sex immediately before this incident?

16 MS. LOZEN: Well, Judge, at this point  
17 this is hearsay.

18 MR. GLENN: Well, no, this is --

19 THE COURT: Well, no, because he asked her  
20 about it. It's something he said. I'll allow it.

21 MS. LOZEN: It's the officer that --

22 THE COURT: Well, she testified to that.

23 MS. LOZEN: She testified to --

24 THE COURT: I'll overrule the objection.

25 Go ahead.

1 MS. LOZEN: Thank you, Judge.

2 MR. GLENN: All right.

3 BY MR. GLENN (Continuing):

4 Q. Did she mention at any point in time having consensual  
5 sex with anyone immediately prior to this incident?

6 A. No.

7 Q. Did she mention going to anyone's house after this  
8 incident and having a fight with someone?

9 A. No.

10 Q. Did she say that she was injured somehow in this matter?

11 A. Yes.

12 Q. Okay. What injuries did she say she received?

13 A. She was struck with a gun.

14 Q. When you say she, you're talking about Miss Sams?

15 A. Yes.

16 Q. Said that she was struck with a gun?

17 A. Over her left eye.

18 Q. Over her left eye? Anything else?

19 A. She had a left bruise on her inner thigh.

20 Q. And were you able to visibly see any type of injuries to  
21 her face?

22 A. I do not have that in my report and I do not recall.

23 Q. All right. Now, what time did you take this report?

24 A. Approximately four fifteen.

25 Q. In the afternoon?



1 A. Yes.

2 Q. Okay. And was this just a walk-in?

3 A. Yes.

4 Q. Okay.

5 THE COURT: What time did you say it was?

6 THE WITNESS: Four fifteen.

7 THE COURT: A.M.?

8 THE WITNESS: P.M.

9 THE COURT: P.M.? Okay.

10 BY MR. GLENN (Continuing):

11 Q. Now, given the -- going over the description I believe

12 you said the perpetrator had brown eyes?

13 A. Yes, from what she said, yes.

14 Q. And where did you get that information from?

15 A. From her.

16 Q. Okay. And you said the person had a thin mustache?

17 A. No.

18 Q. What did you say? It was a mustache, right?

19 A. Yeah, she said --

20 Q. Just mustache?

21 A. Dark complected with mustache.

22 Q. Any other facial description that you were able to obtain

23 from her?

24 A. No.

25 MR. GLENN: May I approach, Judge?

1 THE COURT: Sure. You don't have to ask  
2 can you approach.  
3 MR. GLENN: Okay.  
4 COURT REPORTER: Are you going by letters  
5 or numbers?  
6 THE COURT: Whatever you want to do. What  
7 are you doing?  
8 MS. LOZEN: He gave me numbers, but at the  
9 same time I want to know why he's marking the report.  
10 THE COURT: Let her know what it is.  
11 MR. GLENN: Pardon?  
12 THE COURT: I said let her know what it is  
13 you're getting marked.  
14 MR. GLENN: Sure.  
15 MS. LOZEN: I ask for an offer of proof as  
16 to why we're marking this?  
17 MR. GLENN: It's a prior inconsistent  
18 statement not offered for the truth of the matter  
19 asserted, but offered to show that the complaining  
20 witness told someone else something that's different than  
21 what she testified to here in court.  
22 MS. LOZEN: But I believe we mark the  
23 report and take it into evidence. He just got it through  
24 the witness.  
25 MR. GLENN: Well, the thing is, I have to

1 mark reports so we know what we're talking about.

2 THE COURT: He can mark it. It just won't  
3 go to the jury. That's all.

4 MR. GLENN: Well, look, I'll move for its  
5 admission after --

6 THE COURT: Well, after you finish, yeah.  
7 You've got to identify it.

8 MR. GLENN: Yes, I know, Judge. That's  
9 why I'm having it marked first.

10 (Defendant's Exhibit A was marked for  
11 identification by the Court Reporter)

12 BY MR. GLENN (Continuing):

13 Q. I'm going to hand you what's been marked as Defense  
14 Proposed Exhibit Number A. I want you to compare that to  
15 what you have in your hand.

16 A. Same report.

17 Q. Okay. Now, there's page two.

18 THE COURT: That's the same report that  
19 he's got in his hand?

20 MR. GLENN: Yes.

21 THE COURT: Okay.

22 BY MR. GLENN (Continuing):

23 Q. And this is the report that you're talking about?

24 A. Yes.

25 Q. All right.

1                   And this is the document that you  
2           indicated -- that it indicates where you notated Miss  
3           Sams told you that she was hit in the eye with a gun,  
4           right?

5   A.    Right.

6   Q.    And she did not say anything about being forced to  
7           perform fellatio?

8   A.    No.

9   Q.    And she did not indicate that she had consensual sex with  
10          anyone immediately before this incident?

11   A.    In my report, no.

12   Q.    And that she didn't get into a fight with someone  
13          immediately after this incident?

14   A.    No.

15                   MR. GLENN: All right. Move for admission  
16           of Defense Proposed A as a prior inconsistent statement.

17                   MS. LOZEN: I'd like to know what Rule of  
18           Evidence he's planning to use, Judge --

19                   THE COURT: Yes.

20                   MS. LOZEN: -- cause it's all hearsay and  
21           I don't believe that there's a Rule of Evidence that  
22           permits this.

23                   THE COURT: What rule are you relying on,  
24           Mr. Glenn?

25                   MR. GLENN: I'm going to Rule 801 sub D

1 sub --

2 THE COURT: Wait. Wait. Wait. 801.

3 MR. GLENN: Yes. Sub D.

4 THE COURT: I'm having trouble finding the  
5 books up here. Let me see your book cause I can't find  
6 the Rules of Evidence in here.

7 MR. GLENN: May I approach, Judge?

8 THE COURT: Sure. Just hand me the book.

9 MR. GLENN: Sure.

10 THE COURT: Which one are you relying on?

11 MR. GLENN: 801 (d)(1).

12 THE COURT: The statements which are not  
13 hearsay. Ladies and gentlemen, would you go into the  
14 jury room for just a moment, please?

15 (1:16 P.M. the jury left the courtroom)

16 THE COURT: Okay. Miss Lozen, he's citing  
17 801, statements which are not hearsay -- a statement that  
18 is not hearsay -- a prior statement of a witness, the  
19 declarant testifying at the trial or hearing and is  
20 subject to cross-examination concerning the statement and  
21 the statement is inconsistent with the declarant's  
22 testimony and was given under oath subject to the penalty  
23 of perjury at trial, hearing or other proceedings or in a  
24 deposition. How do you distinguish what's going on here  
25 from this rule?

1 MS. LOZEN: What's going on is if this was  
2 perhaps a transcript from Miss Sams Dowe then I believe  
3 that this could be admissible, but, first off, when we  
4 say it's the declarant he is not the declarant. She's  
5 the declarant, at least that's what my understanding is,  
6 and also it says it has to be under oath and clearly,  
7 again, there's been no testimony or foundation that a  
8 statement given by Miss Sams Dowe to the officer were  
9 ever under oath.

10 MR. GLENN: No.

11 THE COURT: But her testimony here today  
12 was under oath.

13 MR. GLENN: Right.

14 MS. LOZEN: No, but when you --

15 THE COURT: It says given under oath  
16 subject to the penalty of perjury at a trial.

17 MS. LOZEN: And, again, if it had been  
18 like a previous transcript --

19 THE COURT: It doesn't say anything about  
20 a transcript. It says, the declarant's testimony at a  
21 trial or a hearing, a statement is not hearsay if the  
22 declarant testified at the trial or hearing and is  
23 subject to cross-examination concerning the statement and  
24 the statement is inconsistent with the declarant's  
25 testimony that was given under oath subject to the

1 penalty of perjury at a trial, hearing or other  
2 proceedings or in a deposition.

3 MS. LOZEN: Again, Judge, my issue with  
4 this is that it has to be inconsistent with the  
5 declarant's testimony and was given under oath and the  
6 part I -- the first section I'm not disagreeing with.  
7 The second in which there are parts to it which I'll  
8 clarify, and if I have to recall Miss Sams then that's  
9 what I'll do, to show that there are parts that are  
10 consistent but, again, we're not there yet, but the point  
11 is that the first section -- and then there's a comma  
12 that says, and, was given under oath subject to the  
13 penalty of perjury and so, again, the issue that I'm  
14 having with this is that he's not satisfying every part  
15 of that rule.

16 THE COURT: Well, it says, a statement is  
17 an oral or written assertion or a nonverbal conduct of a  
18 person if it is intended by the person as an assertion.  
19 So it would have been intended by her as an assertion  
20 when she gave it to this officer, wouldn't it?

21 MS. LOZEN: It's not under oath.

22 THE COURT: It says, a statement, oral or  
23 written assertion. What do you got to say about that?

24 MR. GLENN: Well, she testified one way  
25 under oath here and she gave a prior inconsistent

1 statement to this officer long before she came to court  
2 and so, no, the statement that she gave to the officer  
3 doesn't have to be under oath cause it's not being  
4 offered for the truth of the matter asserted. It's  
5 merely offered to show that at any given point in time --

6 THE COURT: She made an inconsistent  
7 statement.

8 MR. GLENN: -- she gave a completely  
9 inconsistent statement to what she's testifying to here  
10 right now.

11 THE COURT: Okay.

12 MS. LOZEN: And, again, Judge, I would  
13 submit that this has to be a verbal statement.

14 THE COURT: You mean it can't be a written  
15 statement?

16 MS. LOZEN: I would submit that -- see the  
17 problem is there are consistencies and inconsistencies.  
18 The whole thing, it's not like she was completely  
19 inconsistent. If she was completely --

20 THE COURT: But, counsel, that's for the  
21 credibility of the jury to decide, not for me to decide  
22 the admissibility of it. If you want to bring her back  
23 and show she made some consistent statements that's up to  
24 you, but he wants to show she made some inconsistent  
25 statements.



1 MS. LOZEN: The other point that I would  
2 like to address to the Court is it says, concerning --  
3 subject to cross-examination concerning the statement  
4 and he never showed -- defense counsel never showed Miss  
5 Sams Dowe this police report and so it has to be, again,  
6 concerning -- so it would be basically he would have  
7 to -- I believe the foundation is wrong, Judge, and he  
8 would have to take this report and show it to Miss Sams  
9 Dowe and she would be the witness that he would have to  
10 bring this in through.

11 THE COURT: But she testified that -- he  
12 had the statement in his hand and he asked her questions  
13 about it and she said she didn't make those statements or  
14 whatever it was.

15 MS. LOZEN: Well, then if she said she  
16 didn't make it or she doesn't remember --

17 THE COURT: Right.

18 MS. LOZEN: -- there's no impeachment  
19 because he can't --

20 THE COURT: Well, if she said she didn't  
21 remember that's one thing.

22 MS. LOZEN: So not remembering is --

23 MR. GLENN: That's not what she said.

24 THE COURT: No, she -- what did she say?

25 MR. GLENN: Well, she was asked whether or

1 not she was injured in this incident and she said she got  
2 hit in the eye at this fight at Ebony Jones' place.

3 THE COURT: And she told him that she got  
4 hit by the Defendant.

5 MR. GLENN: Yes, right.

6 THE COURT: Yeah.

7 MS. LOZEN: And, Judge, that's already  
8 been --

9 THE COURT: Is that inconsistent?

10 MS. LOZEN: That's already been put before  
11 the jury. The jury's already heard that. The jury's  
12 already had that information.

13 THE COURT: So you're saying because they  
14 heard it through you that he can't do anything with it?

15 MS. LOZEN: No, I'm saying that this  
16 witness has already testified that she told me she was  
17 hit with a gun. If he wants to show that's an  
18 inconsistency, then he can show that's an inconsistency,  
19 but admitting the report --

20 THE COURT: Yeah, yeah, right. I agree  
21 with you on that. Yeah, why would it be necessary for  
22 you to admit the report?

23 MR. GLENN: Well --

24 THE COURT: If she said she got hit, she's  
25 admitting that she got hit in the house by someone in the

1 eye. He's testified that she told him that he got hit by  
2 the perpetrator.

3 MR. GLENN: Right.

4 THE COURT: Why do you need the statement?

5 MR. GLENN: Well, it's not just that  
6 allegation.

7 THE COURT: Well, what is the other  
8 allegation?

9 MR. GLENN: The other allegation is being  
10 forced to perform fellatio.

11 THE COURT: Well, he's saying that she  
12 didn't tell him anything about the fellatio, is that  
13 right, Officer?

14 THE WITNESS: Yes.

15 THE COURT: Yeah.

16 MR. GLENN: And that's the whole -- that's  
17 my point.

18 THE COURT: Well, he's admitted to -- she  
19 said she did tell him and he said, no, she didn't tell  
20 me. So why do you need the statement?

21 MR. GLENN: She testified in court that  
22 she was truthful and she gave a complete accounting of  
23 what happened that day.

24 THE COURT: To the officer.

25 MR. GLENN: To the officer --

1 THE COURT: And he's saying --

2 MR. GLENN: -- and the officer's saying

3 that, no, she didn't tell me that and that is in his

4 statement.

5 THE COURT: So why do you need the

6 statement?

7 MR. GLENN: To show that there was an

8 inconsistent statement that --

9 THE COURT: He's already testified that it

10 was an inconsistent statement.

11 MR. GLENN: Well, then and --

12 THE COURT: No, counsel.

13 MR. GLENN: Okay. Well, and also as with

14 whether or not she went to another person's house before

15 she went to her mother's house.

16 THE COURT: Well, he said -- everything

17 that you're trying to put in the statement he's testified

18 to. He's testified that she didn't tell him that she had

19 been to somebody else's house, is that correct?

20 MR. GLENN: That's correct.

21 THE COURT: So why do you need the

22 statement?

23 MR. GLENN: Well, this is --

24 THE COURT: The best testimony is him.

25 MR. GLENN: Pardon?

1 THE COURT: The best testimony is her and  
2 him.

3 MR. GLENN: And I --

4 THE COURT: Not the statement.

5 MR. GLENN: Well, he has -- he has given  
6 the foundation for admitting this statement. It's not  
7 being offered for the truth of the matter asserted.

8 THE COURT: No, I'm going to sustain the  
9 objection.

10 MR. GLENN: That's my book.

11 MS. LOZEN: Judge, I believe that's  
12 defense counsel's book.

13 MR. GLENN: That's my book.

14 THE COURT: Oh, I stole your book. Sorry  
15 about that. No. Okay. Go ahead.

16 MR. GLENN: All right. Well, since the  
17 report can't be physically admitted I would ask that the  
18 officer be allowed to read what he wrote.

19 THE COURT: Well, he's testified to what's  
20 in there. You can argue to the jury. You got it on the  
21 record.

22 MR. GLENN: Oh, I'm -- all right.

23 THE COURT: You got it on the record,  
24 counsel. You got on the record that she told the officer  
25 that the perpetrator hit her. There's further testimony

1 here today to show that she was hit by somebody in a  
2 fight at a house.

3 MR. GLENN: Right.

4 THE COURT: She didn't tell the officer  
5 that she had stopped by somebody's house, is that  
6 correct, Officer?

7 THE WITNESS: That's correct.

8 THE COURT: He said that, right?

9 MR. GLENN: Right.

10 THE COURT: What else do you want?

11 MR. GLENN: And the fellatio.

12 THE COURT: Well, he said that she never  
13 told him that so he's testified to it.

14 MR. GLENN: All right.

15 THE COURT: Okay. So the objection's  
16 sustained.

17 MR. GLENN: All right. I would just --  
18 just for the record, I'm just arguing because I don't see  
19 the prejudice --

20 THE COURT: Counsel --

21 MR. GLENN: I understand.

22 THE COURT: -- your argument is properly  
23 noted and Brion has got it recorded.

24 MR. GLENN: Thank you, Judge.

25 THE COURT: Okay. Is that all you have?

1 Cause you can sit down.

2 MR. GLENN: That's all I have, Judge.

3 THE COURT: Any redirect?

4 MS. LOZEN: I would have some redirect,  
5 Judge.

6 THE COURT: Okay. Make it short.

7 MS. LOZEN: May we have the jury?

8 THE COURT: Oh, I'm sorry, yeah.

9 COURT OFFICER: All rise.

10 (1:25 P.M. the jury was brought into  
11 The courtroom)

12 THE COURT: All right. Ya'll can be  
13 seated. Go ahead, Miss Lozen.

14 REDIRECT EXAMINATION

15 BY MS. LOZEN:

16 Q. Officer, again, when you're taking a preliminary  
17 complaint are you trying to get every detail of  
18 everything that occurred?

19 A. Yes. Literally from beginning to end of what transpired.

20 Q. Okay.

21 And when you say you ask the person, tell  
22 me what happened to you, is that just generally how you  
23 would talk to them or how do you take the general  
24 complaint from somebody?

25 A. Yes, explain to me what happened, what were the

1 circumstances that lead up to you coming in today.

2 Q. Okay.

3 And you indicated that this is two and a  
4 half pages essentially -- or one page and half on a  
5 second page, correct?

6 A. Correct.

7 Q. And so you're not taking necessarily a transcript of  
8 everything she's telling you. You're taking a summary?

9 A. Correct.

10 Q. And you're taking a summary regarding her assault  
11 necessarily --

12 MR. GLENN: Objection to the leading  
13 nature. That's not what he testified to.

14 THE COURT: Sustain the objection. You're  
15 testifying, counsel, not asking questions.

16 MS. LOZEN: I know.

17 BY MS. LOZEN:

18 Q. I just want to know did you take -- you're taking a  
19 summary?

20 A. Yes, that's correct.

21 Q. Okay.

22 And you're taking a summary regarding her  
23 assault, not necessarily --

24 MR. GLENN: Objection. The word summary  
25 is not what he's asking. He said that he's taking a



1 detailed statement from the witness from the beginning to  
2 the end of what happened. She's saying summary as in an  
3 edited version of what she said. That's not what he's  
4 saying and so --

5 THE COURT: Sustain the objection.

6 MR. GLENN: And so I object to --

7 THE COURT: Sustain the objection.

8 BY MS. LOZEN (Continuing):

9 Q. Officer, this is not a transcript, correct?

10 THE COURT: Well, we know it's not a  
11 transcript, counsel. We know that. We know that. What  
12 are you going after?

13 MS. LOZEN: I'm trying to go after the --

14 THE COURT: Are you going to impeach your  
15 own witness?

16 MS. LOZEN: No, Judge. I'm trying to go  
17 after that this is a page and a half and Miss Sams Dowe,  
18 it took her over two hours to testify so --

19 THE COURT: Because she was subject to  
20 cross-examination. He just -- no, no, I'm not going to  
21 allow that. You're trying to repair something. No, no.

22 MS. LOZEN: Okay.

23 THE COURT: You're stuck with what you got  
24 there.

25

1 BY MS. LOZEN (Continuing):

2 Q. And, Officer, this is regarding her criminal sexual  
3 conduct complaint, not her entire day?

4 A. Correct.

5 MS. LOZEN: Nothing further, Judge.

6 THE COURT: All right. You may step down.  
7 Call your next witness.

8 (1:28 P.M. witness excused)

9 THE COURT: Call your next witness.

10 MS. LOZEN: The People call Lashawn  
11 Cooper.

12 THE COURT: Okay. How long is he going to  
13 be?

14 MS. LOZEN: Judge, she is the sister of  
15 the complainant. I'm not positive of how long she will  
16 be.

17 THE COURT: We'll try.

18 COURT CLERK: You can step this way.

19 THE COURT: Step up, ma'am.

20 COURT CLERK: Step right here, raise your  
21 right hand. Face the Judge, ma'am.

22 THE COURT: Raise your right hand, ma'am.

23

24

25

\* \* \*

L A S H A W N C O O P E R

having been first duly sworn in and by the Court at 1:28 P.M., was examined and testified upon her oath as follows:

THE COURT: You swear the testimony you're about to give before this Court shall be the truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

COURT CLERK: Give your name for the Court Reporter and then you're going to have a seat in the black chair.

THE WITNESS: Lashawn Cooper.

COURT CLERK: Spell it.

THE WITNESS: L-a-s-h-a-w-n C-o-o-p-e-r.

THE COURT: Okay. Have a seat. Speak into the mike, ma'am.

COURT CLERK: Right to you, ma'am.

THE COURT: Pull it around to you.

MS. LOZEN: May I, Judge?

THE COURT: Sure. Go ahead.

MS. LOZEN: Thank you.

DIRECT EXAMINATION

BY MS. LOZEN:

Q. Good afternoon.

1 A. Good afternoon.

2 Q. Would you state your name for the record?

3 A. Lashawn Cooper.

4 Q. And, Miss Cooper, was there a time when you were known as  
5 Lashawn Hayes?

6 A. Yes.

7 Q. Okay. And in 1996 were you Lashawn Hayes?

8 A. Yes.

9 Q. Okay.

10 And I'd like to ask you, do you know  
11 someone by the name of Talisha Sams or Talisha Sams Dowe?

12 A. Yes.

13 Q. How do you know her?

14 A. She's my sister.

15 Q. Younger or older sister?

16 A. Younger.

17 Q. And you're her older sister?

18 A. Yes.

19 Q. And in 1996, September 14th, of 1996 did something happen  
20 that brings you to court?

21 A. Yes.

22 Q. And did something in this incident involve Talisha?

23 A. Yes.

24 Q. And how did you learn of this incident about Talisha?

25 A. I was the one that took her to the hospital and the

1 police station.

2 Q. Where were you at when you first learned that this  
3 incident occurred?

4 A. I was at home.

5 Q. And how did you receive this information that this --  
6 something happened to Talisha?

7 A. Through my sisters.

8 Q. Okay. Which sisters?

9 A. Nicole, Andrea, Talisha.

10 Q. And do all these sisters, do they live with your  
11 grandmother?

12 A. Yes, they do.

13 Q. And where was that at?

14 A. At the time we were on Sheridan, I believe.

15 Q. And were you living on Sheridan?

16 A. No.

17 Q. Where were you living at?

18 A. French Road.

19 Q. And I guess I'm just wondering, did you receive a phone  
20 call or --

21 A. Yes.

22 Q. -- how did you learn this?

23 Okay. You received a phone call. Do you  
24 remember who the phone call was from?

25 A. Talisha.

1 Q. And as a result of what Talisha told you did you then go  
2 to your grandmother's house?

3 A. Yes, I did.

4 Q. And this is the grandmother's house on Sheridan, correct?

5 A. Yes.

6 Q. Now, your grandmother, is she still alive?

7 A. No, she's not.

8 Q. Okay.

9 And then when you got to your  
10 grandmother's house on Sheridan can you tell us what you  
11 saw?

12 A. She was crying.

13 Q. And when you say she who do you mean?

14 A. Talisha.

15 Q. And when you say she was crying is this something normal  
16 for Talisha?

17 A. No.

18 Q. Would you describe her normal personality or her normal  
19 demeanor?

20 A. She's happy. She's a go-getter. She's always been --  
21 she'd cheer up the whole room.

22 Q. So when you saw her crying was this unusual to you?

23 A. Yeah, it was.

24 Q. And once you saw her crying tell me what happened next?

25 A. I kept asking her what was wrong and she told me she had

1 got raped and I immediately took her to the hospital and  
2 made a police report.

3 Q. Do you remember if you went to the police first or to the  
4 hospital first?

5 A. That happened in '96 so I don't know which way I did it,  
6 but I know I was the one who did it.

7 Q. Okay.

8 Do you know if there was a reason why you  
9 didn't call the police from your grandmother's home?

10 A. Ah, I been in that situation before and my first thought  
11 was we -- my grandmother was sick, you know, and we  
12 didn't want it to irritate my grandmother and by me being  
13 the oldest and that's what I decided to do.

14 Q. So you just decided to take her to the police?

15 A. Yes.

16 Q. And did you -- do you remember if you walked to the  
17 police station or --

18 A. I don't remember.

19 Q. You don't remember?

20 Now, did Talisha tell you in detail about  
21 the assault?

22 A. I don't remember. I believe she did, but I don't  
23 remember.

24 Q. Okay. Do you remember if she named somebody or --

25 MR. GLENN: Objection. She said she

1 doesn't remember.

2 THE COURT: She said she doesn't remember.

3 MS. LOZEN: Well, I just asked for  
4 details. Now, I want to know if she named a suspect.

5 MR. GLENN: Well, she said she didn't  
6 remember.

7 THE COURT: If she doesn't remember how  
8 can she name a suspect?

9 MS. LOZEN: Well --

10 THE COURT: You're stuck with that answer,  
11 counsel.

12 MS. LOZEN: Well, Judge, it's different  
13 than --

14 THE COURT: No, it's not. Sustain the  
15 objection. Go onto something else.

16 BY MS. LOZEN (Continuing):

17 Q. Do you remember which hospital?

18 A. Receiving, I believe.

19 Q. Would that be Detroit Receiving Hospital?

20 A. Yes, ma'am.

21 Q. And was Talisha seen at the E.R.?

22 A. Yes.

23 Q. And do you know if -- when you were at the hospital a  
24 rape kit was performed?

25 A. Yes, it was.



1 Q. And do you know -- once you left the hospital where did  
2 you take Talisha?

3 A. Back to my house.

4 Q. And you did not take her back to your grandmother's  
5 house?

6 A. No.

7 Q. How long did Talisha stay with you?

8 A. Um, she stayed with me for a while.

9 Q. Okay.

10 And your home, where is that in  
11 relationship to Sheridan Street?

12 A. At that time?

13 Q. At that time?

14 A. Um, I was off Woodward.

15 THE COURT: Well, you're asking about  
16 French Road as to Sheridan, right?

17 MS. LOZEN: Correct.

18 THE COURT: You better clear it up. She  
19 thinks you're talking about some house she used to be at.

20 MS. LOZEN: Yes, Judge.

21 BY MS. LOZEN (Continuing):

22 Q. So from Sheridan where your grandmother lived -- and you  
23 indicated you lived on French Road?

24 A. Uh-huh.

25 Q. Is that a yes?

1 A. Yes, ma'am.

2 Q. Okay.

3 Where is Sheridan at in relation to French  
4 Road?

5 A. You mean the distance?

6 Q. Yes.

7 THE COURT: Yes.

8 THE WITNESS: It's a pretty nice distance.  
9 It's, you know, it's --

10 THE COURT: Do you know in blocks?

11 THE WITNESS: I don't know how many  
12 blocks. I couldn't tell you, but it's not that far  
13 because French Road -- I stayed off of French Road  
14 between Warren and Canfield and my grandmother stayed off  
15 of Canfield and -- or Sylvester and Mack, that area.

16 BY MS. LOZEN (Continuing):

17 Q. Is it a distance you could walk or did you have to drive  
18 it?

19 A. I have to drive.

20 Q. Okay.

21 Now, did you also have a little sister  
22 named Andrea?

23 A. Yes, I do.

24 Q. And was Andrea younger than Talisha?

25 A. Yes, she is.

1 Q. And do you -- were you around Andrea when her first  
2 daughter was born?

3 A. Yes, I was.

4 MR. GLENN: Objection to relevancy.

5 THE COURT: Why is that relevant, counsel?

6 MS. LOZEN: Because, again, Miss Sams  
7 Dowe -- Talisha's already testified about the connection  
8 between her youngest sister Andrea and the Defendant's  
9 family and I wanted to question this witness about her  
10 knowledge of this relationship.

11 THE COURT: Why would that be important as  
12 to this case?

13 MS. LOZEN: It corroborates what the  
14 victim is saying as far as whether she knew the Defendant  
15 in 1996 or whether she met the Defendant in the year 2000  
16 when this child -- the first child was born.

17 THE COURT: Mr. Glenn.

18 MR. GLENN: I don't see how that can  
19 corroborate or be relevant on anything. She can't  
20 testify to when somebody else met.

21 MS. LOZEN: Again, Judge, her sister's  
22 having her first baby and the sister Andrea was living  
23 with Talisha --

24 THE COURT: Yes.

25 MS. LOZEN: -- and so, again, to show that

1 just to corroborate that --

2 THE COURT: But it's not showing that the  
3 Defendant was there. It's showing that some other  
4 members of his family were there.

5 MS. LOZEN: It shows, again, her family,  
6 the Sams family, met the Jemison family in the year 2000.

7 THE COURT: Yes.

8 MS. LOZEN: And it shows -- it  
9 corroborates that, again, this witness again affirms  
10 that, well, as an offer of proof it affirms that this  
11 did, in fact, occur and, again, I'm not going to spend a  
12 lot of time on it. I'll just --

13 THE COURT: Sustain the objection.

14 BY MS. LOZEN (Continuing):

15 Q. Were you introduced to Andrea's -- the father of Andrea's  
16 child?

17 A. I don't remember how we got introduced.

18 THE COURT: Well, she didn't ask you now.  
19 She asked you were you.

20 THE WITNESS: Were we introduced? At that  
21 time it was -- it was a lot of drama back then.

22 BY MS. LOZEN (Continuing):

23 Q. But there was a time where you were, in fact, introduced  
24 by -- introduced?

25 A. Not personally like we are now. It was over the phone,

1 him and I.

2 Q. Okay.

3 Now, as it relates to Talisha's demeanor  
4 before the assault you described her -- can you tell us  
5 how you described her?

6 MR. GLENN: Objection. There's nothing on  
7 this record that this witness saw Miss Sams immediately  
8 before this incident.

9 MS. LOZEN: I'm asking about her general  
10 demeanor.

11 MR. GLENN: Well, that's --

12 THE COURT: Why is that important?

13 MS. LOZEN: Then my next follow-up  
14 question would be her demeanor after the assault, after a  
15 victim has been raped, if she --

16 THE COURT: Counsel, that's not -- I'll  
17 sustain the objection. You're going way far afield.

18 MS. LOZEN: Judge, I think it's important.

19 THE COURT: Did you see her on that night,  
20 young lady?

21 THE WITNESS: Yes, I did.

22 THE COURT: Before this incident?

23 THE WITNESS: Yes.

24 THE COURT: Before the incident?

25 THE WITNESS: Yes, I did.

1 THE COURT: Before she went to work?

2 THE WITNESS: Yes, I did.

3 THE COURT: I'll let you ask that. Yeah,  
4 go ahead.

5 BY MS. LOZEN (Continuing):

6 Q. Did you see her before she went to work?

7 A. Yes, I did.

8 Q. And what was her demeanor like before she went to work?

9 A. She was happy. She was up. Like I said, she always --  
10 she will make the room.

11 Q. And she was not crying or upset?

12 A. No.

13 Q. Okay.

14 And after you saw her and even months  
15 after you saw her what was her demeanor like?

16 A. She was always crying, taking a bath and sleeping, um,  
17 depressed.

18 Q. Was she as social as she used to be?

19 A. She didn't want to go places. She didn't want to do  
20 anything, yeah.

21 MS. LOZEN: Nothing further, Judge.

22 THE COURT: Mr. Glenn.

23 MR. GLENN: No questions, Judge.

24 THE COURT: All right. You may step down.

25 (1:40 P.M. witness excused)

1 THE COURT: Do you have another short  
2 witness, Miss Lozen?

3 MS. LOZEN: Judge, we can try to get  
4 through Andrea Sams.

5 THE COURT: Okay. Raise your right hand,  
6 young lady.

7 \* \* \*

8 A N D R E A S A M S  
9 having been first duly sworn in and by the Court at 1:40  
10 P.M., was examined and testified upon her oath as  
11 follows:

12 THE COURT: Do you swear the testimony  
13 you're about to give before this Court shall be the truth  
14 and nothing but the truth, so help you God?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Give him your name and  
17 spell it for him.

18 THE WITNESS: Andrea, A-n-d-r-e-a, Sams,  
19 S-a-m-s.

20 THE COURT: Okay. You may proceed, Miss  
21 Lozen.

22 MS. LOZEN: Thank you, Judge.

23 DIRECT EXAMINATION

24 BY MS. LOZEN:

25 Q. Good afternoon.

- 1 A. Good afternoon.
- 2 Q. Would you state your name for the record?
- 3 A. Andrea Sams.
- 4 Q. And, Miss Sams, do you know someone by the name of --
- 5 THE COURT: Let her pull the mike around
- 6 to her.
- 7 BY MS. LOZEN (Continuing):
- 8 Q. Miss Sams, do you know someone by the name of Talisha
- 9 Sams Dowe?
- 10 A. Yes.
- 11 Q. How do you know her?
- 12 A. My sister.
- 13 Q. Is she older or younger than you?
- 14 A. Older.
- 15 Q. Okay.
- 16 And was there an incident in 1996
- 17 involving Talisha that brings you to court today?
- 18 A. Yes.
- 19 Q. And this incident, how much do you know about this
- 20 incident?
- 21 A. I just found out about it this year.
- 22 Q. And in 1996 where was your family living?
- 23 A. 3996 Sheridan Street.
- 24 Q. Was this with your grandmother?
- 25 A. Grandmother, yes.



1 Q. And your other siblings as well?

2 A. Yes.

3 Q. And did that include Talisha?

4 A. Yes.

5 Q. And so you said you just found out about this incident  
6 this year in 2016?

7 A. Yes.

8 Q. Okay.

9 So you were indicating you did not know  
10 anything about it in 1996?

11 A. No.

12 Q. Do you know how old you were in 1996?

13 MR. GLENN: Objection to relevance. If  
14 she doesn't know --

15 THE COURT: Well, she can ask her that.

16 THE WITNESS: Maybe thirteen or twelve.

17 BY MS. LOZEN (Continuing):

18 Q. Twelve or thirteen?

19 A. Uh-huh.

20 Q. Okay.

21 And then does there come a time where you  
22 meet someone by the name of Lewan Jemison?

23 A. Yes.

24 Q. How do you know someone by the name of Lewan Jemison?

25 A. Ah, his cousin -- me and his cousin Dominique went to the

1 same middle school and that's how I was introduced to  
2 him.  
3 Q. And --  
4 A. That was like in '98 or so.  
5 Q. You said 1998?  
6 A. '98 or so, yes.  
7 Q. And then does there come a time where your relationship  
8 with Lewan develops?  
9 A. Yes.  
10 Q. And can you describe the relationship for us?  
11 A. We have two children together.  
12 Q. Okay. And are these your oldest children?  
13 A. Yes, the oldest ones, yes.  
14 Q. Okay. And when was your oldest child born?  
15 A. February 10th, 2000.  
16 Q. Where were you living at, at the time?  
17 A. On Wayburn at the time.  
18 Q. Were you living with anybody?  
19 A. Talisha.  
20 Q. And so -- now, this is a -- you have a daughter, correct?  
21 A. Yes.  
22 Q. And so your daughter was living on Wayburn with Talisha  
23 and yourself?  
24 A. Yes, that's correct.  
25 Q. And then now as it relates to the family of Lewan did you

1 meet Lewan's family?

2 A. Yes.

3 MR. GLENN: I'm objecting to this. I  
4 don't see the relevancy, Judge.

5 THE COURT: I'll allow it for a little and  
6 see where it goes.

7 BY MS. LOZEN (Continuing):

8 Q. Do you know if Lewan had a brother?

9 A. Yes.

10 Q. And do you see Lewan's brother in court today?

11 A. Yes.

12 Q. Could you point to him and tell us what he's wearing?

13 A. He's sitting right there with the blue and white striped  
14 shirt on.

15 MS. LOZEN: Judge, for the record she's  
16 identified the Defendant.

17 THE COURT: The record shall so reflect.

18 BY MS. LOZEN (Continuing):

19 Q. When did you -- do you know his name?

20 A. Arthur.

21 Q. Is it Arthur Jemison?

22 A. Arthur Jemison, yes.

23 Q. And when did you meet Arthur Jemison?

24 A. Well, my daughter had to be about six or seven months so  
25 it would be the year 2000 cause when I met him he was on

1 house arrest.

2 Q. Okay.

3 MR. GLENN: Objection, Judge.

4 THE COURT: I'll ask the jury to disregard  
5 that. Be careful with your witness, Miss Lozen.

6 MS. LOZEN: Yes, Judge.

7 BY MS. LOZEN (Continuing):

8 Q. So you met him in the year 2000?

9 A. Yes, that's correct.

10 Q. And when you met him in the year 2000 do you know where  
11 you were at?

12 A. Still on Wayburn at the time.

13 Q. Now, does there come a time when Talisha met Arthur  
14 Jemison?

15 A. Yes.

16 Q. And do you know how that happened?

17 A. Because of me and his brother's relationship. That's how  
18 they met.

19 Q. Okay.

20 And, again, you said they met because of  
21 your relationship?

22 A. Yes, that's correct.

23 Q. And would this have been in the year 1999 to 2000?

24 A. No, it would be in the year 2000.

25 Q. It would be in the year 2000?

1 A. It would be in the year 2000.

2 Q. And so did your family know the Jemison family or was it  
3 just you and Talisha?

4 MR. GLENN: Objection.

5 THE COURT: Well, I'll object. How would  
6 she know how her family knows them or not?

7 MS. LOZEN: Whether they were social  
8 together or saw each other.

9 THE COURT: You've established that. You  
10 just said she had a baby by somebody in the family so the  
11 objection's sustained.

12 BY MS. LOZEN (Continuing):

13 Q. Would your family, the Sams family, spend time with the  
14 Jemison family?

15 A. Me and my sister, yes.

16 Q. Okay.

17 So it was -- the time you spent was  
18 limited to you and your sister?

19 A. Yes, that's correct.

20 Q. Okay.

21 And as far as Talisha was concerned do you  
22 know or have any knowledge of -- that you said she met  
23 him in the year 2000?

24 A. Yes, that's correct.

25 Q. And you did not -- and you, yourself, also met him in the

1 year 2000?

2 A. Yes, that's also correct.

3 Q. Now, when you met Arthur Jemison in the year 2000 do you  
4 remember -- like could you describe his physical features  
5 for us?

6 A. He was slim.

7 Q. In the year 2000?

8 A. No, I'm sorry, not slim. He was heavy set. Heavy set in  
9 the year 2000.

10 Q. And could you describe how tall he was?

11 A. Five eleven or so. I'm not sure. I really didn't pay  
12 attention --

13 Q. Okay.

14 A. -- to his height.

15 Q. And even now, 2016, has he gained weight since the year  
16 2000?

17 A. Well, it looks like he lost some weight, if you ask me.

18 Q. Okay. Thank you.

19 And then you indicated that Talisha met  
20 Arthur Jemison in the year 2000. She also met Lewan  
21 Jemison in the year 2000?

22 A. No, she met Lewan before because I got impregnated with  
23 our first child in the year 1999 so she had met him way  
24 before she met his brother.

25 Q. So she met Lewan before she met Arthur?

1 A. Yes, that's correct.

2 Q. All right.

3 MS. LOZEN: Nothing further, Judge.

4 MR. GLENN: Nothing further.

5 THE COURT: Okay. You may step down.

6 Thank you, very much.

7 (1:45 P.M. witness excused)

8 THE COURT: Okay. We'll stop for the day.

9 Okay. Tomorrow morning at nine fifteen. All right.

10 Ladies and gentlemen of the Jury, please do not attempt  
11 to discuss the case in any manner, not even among  
12 yourselves, not even with your family, anybody, and  
13 tomorrow morning at nine fifteen, okay. All right. Have  
14 a good evening.

15 COURT OFFICER: All rise.

16 (1:45 P.M. the jury left the courtroom)

17 (1:45 P.M. the jury passed from the jury  
18 Room to hallway to leave for the day)

19 THE COURT: Okay. Miss Lozen, how do we  
20 look in terms of witnesses tomorrow, how many more?

21 MS. LOZEN: Tomorrow morning, Judge, I  
22 have the forensic analyst to come down and talk about the  
23 DNA --

24 THE COURT: Okay.

25 MS. LOZEN: -- and that may take a little

1 bit and then there's -- I may anticipate Mr. Crankfield  
2 who is -- he's an endorsed witness as he was Talisha's --  
3 they had a relationship at the time and he's the one that  
4 gave her the Herringbone necklace.

5 THE COURT: Okay.

6 MS. LOZEN: And he can identify that.

7 THE COURT: Okay.

8 MS. LOZEN: He won't take long. I don't  
9 know how long the analyst will take.

10 THE COURT: Okay.

11 MS. LOZEN: And then I also have the  
12 analyst from Sorenson. He's Derek Cutler.

13 THE COURT: Okay.

14 MS. LOZEN: And he is available on call  
15 should we need him.

16 THE COURT: Okay. Okay. All right. Any  
17 phone calls made as to Investigator Wasik?

18 MS. LOZEN: Detective -- officer in charge  
19 Sabo did reach out for -- there was -- actually he can  
20 probably give you more information than I.

21 DETECTIVE SABO: Yes, I personally spoke  
22 to him, your Honor. He is available tomorrow or Thursday  
23 if needed and then I think he's going out of town.

24 THE COURT: Let's try to get him tomorrow  
25 then. Is that okay with you?



1 MS. LOZEN: Well, I don't anticipate to  
2 call him as my witness.

3 THE COURT: Well --

4 MS. LOZEN: So if you want to do it like  
5 tomorrow afternoon.

6 THE COURT: I'll do it tomorrow afternoon.

7 MS. LOZEN: Is there a time he should be  
8 told because he has not received a subpoena. Again, he  
9 was not on my witness list.

10 THE COURT: One o'clock. One o'clock.

11 MS. LOZEN: And so if defense wants to --  
12 defense should be obligated to serve him but, again --

13 THE COURT: You are obligated.

14 MR. GLENN: That's a police officer. I  
15 couldn't serve -- all I can do is give a subpoena.

16 THE COURT: Well, you can serve a police  
17 officer.

18 MR. GLENN: Well, I mean, I don't have  
19 that information.

20 THE COURT: He's retired. He's not a  
21 policeman.

22 MR. GLENN: Well, he don't --

23 THE COURT: If she gives you his address  
24 you got somebody -- counsel, I did the best I could for  
25 you.

1 MR. GLENN: Well, no, I understand that.  
2 If he can be here --

3 DETECTIVE SABO: I have an address and a  
4 phone number, your Honor.

5 THE COURT: Okay. All right.

6 MR. GLENN: All right.

7 THE COURT: Call him. Maybe he'll come in  
8 voluntarily. You going to pay him -- we going to pay him  
9 anyway.

10 MR. GLENN: Right. Okay. Well, I need  
11 his address and phone number, contact information.

12 THE COURT: Okay. So we don't need your  
13 instructions tomorrow, is that what you're telling me?  
14 We're probably going to go into Thursday.

15 MS. LOZEN: Judge, we may -- the forensic  
16 analyst, this analyst may take some time to go through.

17 THE COURT: Okay. We'll shoot to Thursday  
18 for the Jury instructions. All right.

19 (1:50 p.m. proceedings concluded)

20 \* \* \*

21

22

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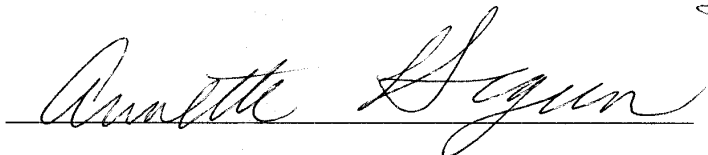
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## C E R T I F I C A T E

STATE OF MICHIGAN) SS  
COUNTY OF WAYNE )

I certify that this transcript, consisting of 211 pages, is a complete, true and correct transcript, to the best of my ability, of the proceedings and testimony taken in this case by Brion Coury, reporter of record, Official Court Reporter, CSR/CSMR/CER-0038, on May 24, 2016.



BRION COURY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribe by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

Date: November 22, 2016

Trial, 5-25-16, 543a

**Trial, 5-25-16**

**COPY**

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,

File No. 15-010216

vs.

Jury Trial

ARTHUR LAROME JEMISON,

**RECEIVED**

Defendant.

DEC 05 2016

PROCEEDINGS TAKEN in the

APPELLATE DEFENDER OFFICE

above-entitled cause, before the HONORABLE LAWRENCE S.

TALON, Judge of the 3rd Judicial Circuit Court, City

of Detroit, at Frank Murphy Hall of Justice, Courtroom

601, Detroit, Michigan, on May 25, 2016.

APPEARANCES:

LUTHER GLENN, Assistant Wayne County  
Prosecutor, appearing on behalf of the  
People.

LISA LOZEN, Attorney-at-Law, appearing  
on behalf of the Defendant.

\* \* \*

BRION CORY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribed by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

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1  
2 May 25, 2016  
3 Detroit, Michigan  
4 9:32 A.M.  
5 \* \* \*  
6 COURT OFFICER: All rise.  
7 (9:32 A.M. the jury was brought into  
8 The courtroom)  
9 COURT OFFICER: You may be seated.  
10 THE COURT: Miss Lozen.  
11 MS. LOZEN: The jury is properly seated,  
12 Judge.  
13 MR. GLENN: Yes, your Honor.  
14 THE COURT: Okay. All right. Call your  
15 next witness, Miss Lozen.  
16 MS. LOZEN: Thank you, Judge. The People  
17 call Elemuel Crankfield.  
18 THE COURT: Okay. Step right up and be  
19 sworn, sir.  
20 \* \* \*  
21 E L E M U E L C R A N K F I E L D  
22 having been first duly sworn in and by the Court at 9:32  
23 A.M., was examined and testified upon his oath as  
24 follows:  
25 THE COURT: Do you swear the testimony

1       you're about to give before this Court will be the truth  
2       and nothing but the truth, so help you God?

3               THE WITNESS: Yes, I do.

4               THE COURT: Have a seat. Give him your  
5       name and spell it for him.

6               THE WITNESS: Elemuel.

7               COURT REPORTER: Spell it.

8               THE WITNESS: E-l-e-m-u-e-l.

9               COURT REPORTER: Last name?

10              THE WITNESS: Crankfield,  
11       C-r-a-n-k-f-i-e-l-d.

12              COURT REPORTER: Thank you.

13              THE COURT: Go ahead.

14              MS. LOZEN: May I proceed, Judge?

15              THE COURT: Yes, you may proceed.

16                      DIRECT EXAMINATION

17       BY MS. LOZEN:

18   Q.       Good morning, sir. Would you state your name for the  
19       record.

20   A.       Elemuel Crankfield.

21   Q.       Mr. Crankfield, do you know someone by the name of  
22       Talisha Sams?

23   A.       Yes.

24   Q.       Okay. And did you know Talisha Sams in 1996?

25   A.       Yes.



1 Q. When did you meet Miss Sams?

2 A. Ah, maybe a year or two prior.

3 Q. Okay. And how did you know her?

4 A. I was dating her. Friends, rather.

5 Q. Say that again?

6 A. We started off as friends, yes.

7 Q. Okay.

8 And was this when you were in the city of

9 Detroit?

10 A. Yes.

11 Q. And you told us you did know her in 1996?

12 A. Yes.

13 Q. Okay.

14 Now, did something happen to Talisha in

15 1996 that brings to you court today?

16 A. She was raped.

17 MR. GLENN: Objection to the hearsay.

18 THE COURT: You got to lay some foundation

19 for that, counsel. I'll strike that statement that he

20 says she was raped unless you lay a foundation for it

21 unless he can show that he was present.

22 BY MS. LOZEN (Continuing):

23 Q. Sir, did you know something happened to her?

24 A. Yes.

25 Q. Okay. How did you find out about it?

1 A. When she came -- at the time we were staying in Detroit.  
2 Well, I was staying on Teppert street and she was pretty  
3 much back and forth with me, but she used -- she, ah -- I  
4 let her borrow one of my chains. I had a gold chain at  
5 this time and I let her wear it that night and when she  
6 wore it that night she came back with like a black eye,  
7 busted nose and she said she had been raped.

8 Q. Okay.

9 So now, sir, I want to ask you, when she  
10 was telling you about this incident, this rape that  
11 occurred, what was her demeanor like?

12 A. She was frazzled.

13 Q. Is that normal for Talisha?

14 A. No.

15 Q. So Talisha doesn't have a frazzled demeanor?

16 A. No.

17 Q. Okay.

18 Was she able to identify who assaulted  
19 her, who raped her?

20 A. No.

21 Q. So she didn't give you a name?

22 A. No.

23 Q. Now, Talisha -- there's been testimony about a  
24 Herringbone necklace. Are you familiar with this  
25 Herringbone necklace?

1 A. That was Herringbone necklace.

2 Q. Your Herringbone necklace?

3 A. Yes.

4 Q. And is this something that you gave to her?

5 A. I let her wear it that night.

6 Q. She was wearing it that night?

7 A. Yes.

8 Q. And how did you get this Herringbone necklace?

9 A. I really don't remember, but I know it was -- I don't  
10 remember.

11 Q. Okay. Was there anything distinctive about it?

12 A. Um, at the time it had been broken so it was soldered.

13 Q. Okay.

14 And you said on the night of the incident  
15 Miss Sams was wearing it?

16 A. Yes.

17 Q. Okay.

18 And then after the incident did you ever  
19 see this Herringbone necklace again?

20 A. No.

21 Q. And to your knowledge how did this Herringbone necklace  
22 get lost or taken?

23 MR. GLENN: Objection, that's hearsay.

24 THE COURT: Sustained.

25

1 BY MS. LOZEN (Continuing):

2 Q. Now, sir, do you know someone, in 1996, did you know  
3 someone by the name of Arthur Jemison?

4 A. No.

5 Q. And to your knowledge when you saw Talisha did she ever  
6 associate with someone named Arthur Jemison in 1996?

7 MR. GLENN: Objection, hearsay.

8 THE COURT: Sustained. How would he know,  
9 counsel, unless you can lay a foundation? You just can't  
10 ask these questions out of the --

11 MS. LOZEN: Sir --

12 THE COURT: You're a lawyer. You can't  
13 have unsworn statements by a witness.

14 MS. LOZEN: No, Judge, I'll lay the  
15 foundation.

16 THE COURT: Well, ask a question that you  
17 laid the foundation.

18 BY MS. LOZEN (Continuing):

19 Q. Sir, when you would associate with Talisha, were there  
20 other friends that you and Talisha would associate with?

21 A. No.

22 Q. So you and her did not have mutual friends?

23 A. No.

24 Q. Okay.

25 So you -- you do not know someone by the

1 name of Arthur Jemison?

2 A. No.

3 Q. Okay.

4 Have you ever met someone by the name of  
5 Arthur Jemison?

6 A. No.

7 MS. LOZEN: Nothing further, Judge.

8 THE COURT: Any questions?

9 MR. GLENN: No questions, Judge.

10 THE COURT: You may step down.

11 (9:38 A.M. witness excused)

12 THE COURT: Call your next witness.

13 MS. LOZEN: Judge, the People call  
14 Catherine Maggert.

15 THE COURT: Okay.

16 COURT CLERK: Raise your right hand,  
17 please.

18 \* \* \*

19 C A T H E R I N E M A G G E R T

20 having been first duly sworn in and by the Court at 9:38  
21 A.M., was examined and testified upon her oath as  
22 follows:

23 THE COURT: Do you swear the testimony  
24 you're about to give before this Court shall be the truth  
25 and nothing but the truth, so help you God?

1 THE WITNESS: Yes, I do.

2 THE COURT: Give him your name and spell  
3 it for him.

4 THE WITNESS: Catherine,  
5 C-a-t-h-e-r-i-n-e, Maggert, M-a-g-g-e-r-t.

6 MR. GLENN: Your Honor, before we get  
7 started with this witness I believe this is an expert  
8 witness and I would object to her testimony on the basis  
9 of 703. She's giving opinions on evidence that -- on  
10 information that has not been admitted into evidence and  
11 that would be mainly she's going to give expert testimony  
12 regarding swabs and DNA samples that she received. None  
13 of that is in evidence right now.

14 MS. LOZEN: Judge, we had a pretrial  
15 motion on this last Friday and the judge that was  
16 presiding ruled on that already.

17 MR. GLENN: No, that judge allowed her to  
18 add a name to the chain and custody.

19 MS. LOZEN: I have an order, Judge.

20 MR. GLENN: Giving custody --

21 THE COURT: Well, let me see the order.  
22 Let me see the order. I'm going to ask the jury to go  
23 into the jury room.

24 COURT OFFICER: All rise.

25 (9:40 A.M. the jury left the courtroom)

1 THE COURT: Okay. Go ahead. You may sit  
2 down if you want.

3 COURT OFFICER: You may be seated.

4 THE COURT: Do you have a copy of the  
5 order?

6 MS. LOZEN: It should be in the court  
7 file, but I'll --

8 THE COURT: Well, I don't have the court  
9 file.

10 MS. LOZEN: Just give me a minute.

11 THE COURT: Well, let me see. It's  
12 probably in that packet right there. It's not in here,  
13 Miss Lozen.

14 MS. LOZEN: May I approach, Judge?

15 THE COURT: Yes.

16 MS. LOZEN: May I approach?

17 THE COURT: Yeah. I think I have it,  
18 though.

19 MS. LOZEN: It's point one.

20 THE COURT: Yeah, I got it. Is this it  
21 right here? Okay. It says, to admit the trial  
22 laboratory report Kit 14-20030, record one and two,  
23 pursuant to MCR 6.202, and to permit video testimony of  
24 forensic DNA analyst, Derek Cutler, pursuant to MCL  
25 766.118, and to amend the People's witness list to

1 include Sergeant David Dehem. Okay. That's what the --  
2 now what is that?

3 MS. LOZEN: Okay, Judge, and what this  
4 analyst is going to testify to are the contents of Kit  
5 14-20030, record one and two. So I served at the  
6 beginning of this trial a 6.202 notice which is Michigan  
7 Court Rule 6.202 and the court rule in summary indicates  
8 that the prosecution provides the defense with lab  
9 reports and we received no objection, then the lab  
10 reports are deemed admissible at trial and, again, to my  
11 praecipe and the motion that we argued on Friday I  
12 included a copy of that notice.

13 If the Court needs it, I do have a copy of  
14 it. It was provided I believe it was back in -- I can  
15 get the date for you -- November, 2015.

16 MR. GLENN: And the report that she's  
17 talking about, there are three reports. There were only  
18 two reports that were noticed up. The third report which  
19 is the conclusion that this witness is going to testify  
20 to does not know the stuff and so that was not -- and  
21 that is not a part of anything that allegedly has been  
22 waived or is admissible, plus the reports assume that  
23 there is a chain in custody established.

24 We don't have anything from the hospital,  
25 the doctor, saying that they put anything in the lab kit,



1 sealed it and gave it to the police. We don't have  
2 anything from the police department saying they received  
3 something, placed it on evidence and took it to the  
4 evidence room.

5 None of that is in evidence here and so in  
6 order for any of that to be -- that needs to be  
7 established first before any witness has testified to  
8 what they allegedly received or looked at in an evidence  
9 folder and that's 703.

10 MS. LOZEN: And if I may, Judge?

11 THE COURT: Wait. Let him finish.

12 MR. GLENN: And so the witness that was  
13 added to the witness list, I'll say what I said on  
14 Friday. Whatever witness you need to bring in to  
15 establish chain and custody I don't have a problem with,  
16 but I'm not waiving chain and custody and the witness  
17 that we have here just gave us a overview of the computer  
18 system. It doesn't establish chain and custody.

19 MS. LOZEN: Judge, the first witness that  
20 testified yesterday was the doctor from the emergency  
21 room who collected the kit and then Sergeant David Dehem  
22 testified to business records and the business records  
23 indicated that from Detroit Receiving Hospital the kit  
24 was collected and then checked into the DPD property --

25 THE COURT: Okay.

1 MS. LOZEN: -- and that it was sent  
2 from -- and it stated he received property for probably  
3 seventeen years or so, if my math is accurate, and that  
4 it was sent to Sorenson and then as a result Sorenson did  
5 the DNA analysis. So that's the chain and custody.

6 Now, Judge, chain and custody goes to  
7 weight, not admissibility and I believe, again, in front  
8 of the jury, the jury has heard that the kit was  
9 collected at the hospital and then again through business  
10 records checked in from DRH, Detroit Receiving Hospital,  
11 to the Detroit property room where it sat and then no one  
12 touched it or did anything to it until it was sent by  
13 U.P.S. to Sorenson Forensics and then that Sorenson  
14 report is included in the 6.202 notice that was -- we  
15 dealt with on Friday.

16 MR. GLENN: There's nothing on this  
17 record indicating who placed anything on evidence, who  
18 put an evidence tag on anything, who received anything  
19 from the Detroit Receiving Hospital and who kept it for  
20 the three days before it was turned over into the  
21 evidence room.

22 See, this kit was done on September the  
23 14th. It wasn't turned over to evidence in September  
24 17th. The three days in here are unaccounted for, and so  
25 who was in custody or who was in control of custody of

1       that evidence is all a black hole.

2               Who put the evidence tags on this  
3 envelope? None of that here has been sworn to. Who  
4 sealed the box from Detroit Receiving Hospital? We don't  
5 even have the bar that --

6               THE COURT: Well, I think the doctor  
7 testified that he --

8               MR. GLENN: No, he didn't. He said that  
9 he could have sealed it, but he doesn't know. The box  
10 isn't even here for him to look at. It could have been  
11 easily --

12              THE COURT: Where is the box?

13              MR. GLENN: I don't know. That's what the  
14 prosecutor has to deal with. I haven't seen it because  
15 the box is not in evidence. The doctor couldn't see it.  
16 He couldn't see it if he filled out anything.

17              THE COURT: Where is the kit?

18              MR. GLENN: Yeah, that's --

19              MS. LOZEN: Judge, the kit is in property  
20 and Sergeant Dehem testified yesterday that it was  
21 returned from Sorenson and checked into property. Now  
22 again, Judge, that goes to weight, not admissibility.

23              It's not necessary and, again, Sergeant  
24 Dehem testified again through business records that the  
25 kit was collected through the hospital by an officer -- I

1 believe her name was Flora Humphrey who then gave it to a  
2 property officer who transferred it to property and  
3 that's where it was checked in on.

4 MR. GLENN: And --

5 THE COURT: Well, you have Flora Humphrey  
6 on the witness list. Why didn't she testify?

7 MS. LOZEN: She's ill and the officer in  
8 charge, who's sitting next to me, can testify that he  
9 made efforts to find her but, again, due to her -- I  
10 don't want to put words in his mouth, but due to his  
11 medical conditions and what not, we were not able to  
12 actually serve her. We're not able to locate her. She's  
13 not an endorsed witness.

14 MR. GLENN: The chain and custody gives --

15 THE COURT: I thought chain and custody  
16 goes to admissibility.

17 MR. GLENN: Admissibility, yes.

18 MS. LOZEN: That's correct, Judge. It  
19 goes to weight. No, Judge, it goes to weight.

20 THE COURT: No, it goes to admissibility.

21 MS. LOZEN: Then if you'll give me a few  
22 minutes I'll go up to my appellate department and find  
23 some case law that says --

24 THE COURT: You're going to have to.  
25 You're going to have to. You're going to have to because

1 if you can't establish a chain and custody how do we know  
2 where it came from?

3 MS. LOZEN: Just, if you'll give me a few  
4 minutes to run upstairs --

5 THE COURT: I just told you I would. You  
6 got a problem.

7 MS. LOZEN: And, Judge, also for the  
8 record I would like to put in defense's opening he said  
9 that this would be a consensual act and it would be  
10 proven to be consensual so, therefore --

11 THE COURT: Well, counsel, you know that  
12 you can't use --

13 MS. LOZEN: I know, Judge, but I guess my  
14 point is --

15 THE COURT: The opening statements are not  
16 considered to be evidence.

17 MS. LOZEN: What --

18 THE COURT: That's the first thing I'm  
19 going to tell the jury.

20 MS. LOZEN: Well, then I'm going to tell  
21 the jury that's argument to be made later, but just give  
22 me a few minutes and I'll run upstairs.

23 THE COURT: You do.

24 MS. LOZEN: May the witness return to the  
25 witness room so she --

1 THE COURT: She's welcome to do whatever  
2 she wants to, yes.

3 (9:48 A.M. recess taken)

4 (Whereupon another case was heard)

5 (10:25 A.M. back on record)

6 THE COURT: Okay. While you were  
7 upstairs, Mrs. Lozen, I got the rule. It says, the facts  
8 or data in a particular case, but which an expert is  
9 basing an opinion or inference shall be in evidence. The  
10 rule does not restrict the discretion of the Court to  
11 receive expert opinion testimony subject to the condition  
12 that the facts are based on the opinion to be admitted  
13 thereafter. Do you intend to admit it into evidence?

14 MS. LOZEN: Say that again, Judge?

15 THE COURT: It says, this rule does not --  
16 well, it says, the facts or data in the particular case  
17 upon which a expert bases an opinion or inference shall  
18 be in evidence. The rule --

19 MS. LOZEN: Well --

20 THE COURT: Wait. The rule does not  
21 restrict the discretion of the Court to receive an  
22 expert's opinion testimony subject to -- subject to the  
23 conditions that the factual base of the opinion be  
24 admitted in evidence thereafter. Rationale for the rule  
25 set forth Rule 704, set forth the criteria that governs

1 the factual basis of the testimony of an expert witness.  
2 The 203 amendment of the rule represents a 'see change in  
3 the procedure for admitting expert testimony in Michigan  
4 courts'.

5 Unless the underlying facts are actually  
6 admitted into evidence a expert may no longer offer an  
7 opinion based on facts supplied to him by others even if  
8 such facts are of the kind normally relied on by a expert  
9 in his every day practice.

10 Instead, expert opinion must be carefully  
11 prepared with the view to eliminating all inadmissible  
12 facts as a basis. An actual offering of the evidence --  
13 offering into evidence all facts relied on by the expert.

14 MS. LOZEN: So --

15 THE COURT: So they're saying you got to  
16 get it admitted into evidence first.

17 MS. LOZEN: If I'm understanding you  
18 correctly, Judge --

19 THE COURT: Well, you're not understanding  
20 me. That's the rule. I'm reading it right from the  
21 Michigan Court Rule.

22 MS. LOZEN: I understand, and there's a  
23 study that this is the data that the analyst is basing  
24 her opinion on --

25 THE COURT: Yes.

1 MS. LOZEN: -- because essentially she's  
2 going to say, you know, I reviewed the information and  
3 she's going to say that based upon the population -- and  
4 this is a study based on the population. Again, the  
5 analyst is going to do a better job of explaining the  
6 study to me than I can because, again, I'm not a --

7 THE COURT: Well, but we're not even into  
8 explaining it yet. Are you going to offer it into  
9 evidence? That's the question and can you get it into  
10 evidence based on the rules? Because it says very  
11 plainly here that it must be admitted into evidence prior  
12 to the expert testifying to it.

13 MS. LOZEN: Judge, it's saying --

14 THE COURT: Or it says in my discretion I  
15 can let you do it after she testifies which I'm willing  
16 to do if you tell me that you can get it into evidence.

17 MS. LOZEN: When you say it, the lab  
18 reports are already, again pursuant to the Michigan Court  
19 Rule 6.202, admitted or I plan to admit those and I  
20 provided defense notice I planned to admit those. If  
21 you're saying the lab reports are what you're looking --  
22 if I'm going to admit those into evidence, the answer is,  
23 yes, I'm going to admit the lab reports into evidence.

24 THE COURT: Well, then what is she going  
25 to testify to?



1 MS. LOZEN: She's going to testify about  
2 the lab reports.

3 MR. GLENN: That's not the 703. It's the  
4 actual buccal -- it's the actual DNA samples themselves.  
5 That has not been admitted into evidence and she is  
6 indicating that -- show me a case law here that says,  
7 well, chain and custody doesn't have to be perfect if a  
8 proper foundation has been laid and that's what I've been  
9 talking about all along. In these other cases that I've  
10 seen here somebody has testified that they collected the  
11 DNA, placed it in the lock sealed --

12 THE COURT: Well, the doctor testified  
13 that he collected it.

14 MR. GLENN: He said he thinks he collected  
15 it and it was either him or a nurse, but his records  
16 didn't -- he wasn't sure, because I asked him. He said  
17 he wasn't sure and there was nothing to -- he didn't have  
18 anything to look at.

19 There wasn't a rape kit to look and see if  
20 he signed it or dated it or anything so he wasn't able to  
21 look at it and say, yeah, this is my signature, this is  
22 what I did. That's not on the record. All he could do  
23 is say, this is twenty years ago and it could have been  
24 me or it could have been the nurse.

25 Then we don't have anything on the record

1 where anybody from DPD came in and said, I received this  
2 from Detroit Receiving Hospital and placed it on  
3 evidence. We don't have that.

4 Now, we have a indication that you think  
5 it might be Officer Humphrey and Officer Humphrey gave it  
6 to Officer Brown who took it over to evidence. None of  
7 that's in evidence right now. Who placed it on evidence,  
8 who put it on a lock sealed folder, who gave it the  
9 number, who sealed it, who signed it, who transported it,  
10 that's not in evidence and that's not imperfect.

11 There's no foundation whatsoever because  
12 we don't have any testimony for it and so that is what  
13 has to be in evidence as far as the -- as far as the  
14 scientific samples is concerned.

15 Now, there are other 703 issues regarding  
16 the science that's involved, regarding the probability of  
17 statistics and how they came up with some of these  
18 numbers. That's completely different and the science  
19 that they're using in DNA, that's completely different.  
20 Those are other 703 objections, but I'm just dealing with  
21 the first one.

22 The first one has to do with the actual  
23 physical specimen, the DNA, or the samples that were  
24 taken from this lady, put on a rape kit and submitted to  
25 the police department. They took it to the evidence

1 room.

2 Now, the cases that I'm seeing right here  
3 clearly state that in these other cases that's what  
4 happened and the first case that I'm looking at here  
5 would be the --

6 THE COURT: That's the --

7 MR. GLENN: -- it's an unpublished  
8 opinion, but it's People versus Trotter and it says here  
9 the prosecution established that the buccal swab used to  
10 compile a DNA profile of the Defendant was the same  
11 buccal swab that the officer collected from the Defendant  
12 in open court at the preliminary examination.

13 The officer testified that he collected  
14 the buccal swab from the Defendant, placed the swab in an  
15 envelope, filled out the envelope, evidence tag, and gave  
16 it to another officer in the courtroom who then  
17 transported the envelope to the Michigan State Police.

18 An employee of the State Police qualified  
19 as an expert in serology at trial testified that she  
20 received the sealed envelope with the Defendant's buccal  
21 swab from the officer who transported it from the  
22 courtroom.

23 Serology expert testified that the buccal  
24 swab that was from the Defendant was never near the rape  
25 kit and that everything was kept in separate sealed

1 containers. She did not cut part of the Defendant's  
2 buccal swab for DNA testing on the same that as if she  
3 tested the rape kit --

4 THE COURT: Well, that would go to  
5 something else.

6 MR. GLENN: Yeah, yeah, it does, but what  
7 I'm saying here is the foundation that they're talking  
8 about, they had somebody in the courtroom that said, I  
9 took the buccal swab from this person, I placed it on  
10 evidence and I gave it to this officer and the officer  
11 took it to the Michigan State crime lab.

12 None of that's here. That is what they  
13 were talking about the foundation for chain and custody.  
14 That is not a foundation here. All we do is just have  
15 somebody saying, well, okay, I looked at reports of  
16 twenty years ago. I wasn't -- I wasn't in this  
17 department then, but this is what somebody else has given  
18 me to read.

19 That is not chain and custody. That is  
20 not a proper foundation and that is not admitted into  
21 evidence so that this person can testify to anything that  
22 she received from the Detroit Police Department. That  
23 foundation has to be laid. It hasn't been laid. It goes  
24 to admissibility and not to just -- whether or not it's a  
25 perfect chain of custody.

1                   It's not a perfect -- we don't have a  
2 chain and custody. There's nothing here on the record to  
3 establish chain and custody so it's not perfect. It's  
4 not existent.

5                   THE COURT: What do you got to say about  
6 that?

7                   MS. LOZEN: Judge, pursuant to the  
8 Michigan Court Rules of evidence I had Sergeant Dehem  
9 testify and again --

10                  THE COURT: Well, what did he testify to?  
11 Tell me what he testified to.

12                  MS. LOZEN: He testified to --

13                  THE COURT: He was from the Michigan State  
14 Police, wasn't he?

15                  MS. LOZEN: No, Judge, he is a sergeant at  
16 Property Division of the Detroit Police Department.

17                  THE COURT: But he only testified that it  
18 was stored there for a considerable period of time and  
19 not subject to any tampering with or anything like that.

20                  MS. LOZEN: That's correct.

21                  THE COURT: So he wasn't even in this  
22 lab -- in this property storage room when this allegedly  
23 occurred, is that correct?

24                  MS. LOZEN: That is again correct.

25                  THE COURT: So he doesn't even know how it

1 got there, right? He just knows it's there.

2 MS. LOZEN: Based upon business records --

3 THE COURT: Yeah.

4 MS. LOZEN: -- which are perfectly  
5 acceptable in a permissible way pursuant to again the  
6 hearsay exceptions to admit information so pursuant to  
7 the hearsay exceptions --

8 THE COURT: Well, I'll let you finish.

9 MS. LOZEN: So pursuant to hearsay  
10 exceptions which are, again, completely permissible I  
11 used business records to establish that that kit was  
12 picked up from the hospital by an officer whose officer  
13 is Flora Humphrey which Sergeant Dehem testified to.

14 THE COURT: Well, how does he know she  
15 picked it up?

16 MS. LOZEN: Business records, Judge.

17 THE COURT: Where are the business  
18 records?

19 MS. LOZEN: He testified to them.

20 THE COURT: Where are they?

21 MS. LOZEN: Where are -- just give me one  
22 moment.

23 THE COURT: Go ahead. You can read it.

24 MS. LOZEN: I'm reading that, again this  
25 was evidence tag number E28034496 was seized on September

1 17th, of 1996. Description or the case number --

2 THE COURT: Who was it seized from?

3 MS. LOZEN: It was from DRH, Detroit  
4 Receiving Hospital, and it was placed on evidence by  
5 Flora Humphrey.

6 MR. GLENN: Now, that document is not in  
7 evidence.

8 MS. LOZEN: But the testimony is.

9 MR. GLENN: That document is not.

10 THE COURT: Well, but she testified to  
11 that.

12 MR. GLENN: Well, the only thing you can  
13 testify -- well, first thing is, business records --  
14 police records and business records are not the same.  
15 The court rule specifically addressed police records and  
16 reports done by police officers and that's excluded from  
17 the business records. So what she's using the business  
18 record --

19 THE COURT: Exception.

20 MR. GLENN: -- exception, that is not  
21 proper. It specifically -- I don't have the court rule.  
22 Do you have the court rule?

23 THE COURT: Just tell me which -- do you  
24 know which one it is?

25 MR. GLENN: I'll find it.

1 THE COURT: I found some court rules here.  
2 We have some. I don't have a copy. Let me make sure I  
3 give you yours.

4 MR. GLENN: This is mine right here.

5 THE COURT: You give the citation and I'll  
6 look at it.

7 MR. GLENN: Sure. Okay. It goes to -- it  
8 would be under 803 sub eight. It has public records and  
9 reports.

10 THE COURT: 803?

11 MR. GLENN: 803 sub eight and it says,  
12 records, reports, statements or data compilations in any  
13 form --

14 THE COURT: Wait a minute. 803 what?

15 MR. GLENN: Eight.

16 THE COURT: Public records and reports.  
17 Okay. Go ahead.

18 MR. GLENN: Okay. It has here, reports  
19 and records, statements and data compilation of any form  
20 of a public officer, agency set forth in, A, the  
21 activities of the officer or agency or, B, matters  
22 observed pursuant to the duty imposed by a law in which  
23 matters there is a duty to report excluding, however, in  
24 criminal cases -- in criminal matters observed by police  
25 officers and other law enforcement personnel and subject



1 to the limitations of MCL 257.624. It specifically  
2 excludes that.

3 That's not what we're talking about here.  
4 Business records don't -- the business record rule here  
5 doesn't apply to police officers. It doesn't apply to  
6 police records and their compilations. So the rule that  
7 she is talking about here don't apply and they don't  
8 apply because of the rule.

9 MS. LOZEN: Judge, if you can look at MRE  
10 803.6, that's the business record exception versus the  
11 public record exception. They're two different  
12 exceptions and when I had Sergeant Dehem testifying I was  
13 relying on 803.6.

14 MR. GLENN: And a business -- a police  
15 officer -- a police agency is a public agency. It's not  
16 a business. It's not for profit.

17 MS. LOZEN: Well, Judge, it --

18 MR. GLENN: That's not -- that is a public  
19 agency and the court rule sub eight specifically talks  
20 about that. It's a public record. Police officers and  
21 businesses, they're completely two different things and  
22 for criminal investigations, these records and the rule  
23 that the prosecutor wants to rely on don't apply.  
24 They're excluded.

25 They're specifically excluded. That's why

1       they said police officers -- police officers and criminal  
2       prosecutions. That's what he said.

3               MS. LOZEN: And, Judge, if I may, the  
4       issue we had yesterday regarding Officer Bennett who the  
5       defense counsel wanted to admit his police report into  
6       the record, that's the exception -- that's where 803.8  
7       applies where it says you cannot admit those police  
8       reports into the record. That's why, again, my hearsay  
9       objection was 803.8.

10              THE COURT: Well, but is this a report of  
11       a police officer, isn't it?

12              MS. LOZEN: It's records -- it's not a  
13       report of the police officer in that it's something  
14       that --

15              THE COURT: It's a record kept by the  
16       police.

17              MS. LOZEN: Kept by the police, correct.  
18       So it's not like he's saying, I observed this happen.  
19       Now, Judge, if you look at 803.6 we call it a business --  
20       the business record exception, but it's a record of  
21       regularly conducted activity and, again, Sergeant Dehem  
22       testified it's regular for them to collect property and  
23       to place it on evidence. It's a regularly conducted  
24       activity that they perform.

25              MR. GLENN: When it deals with criminal

1 prosecution --

2 THE COURT: Do you have a case that says  
3 that, counsel, cause in this I kind of side with her.

4 MR. GLENN: Well, with respect to --

5 THE COURT: You're saying the police  
6 records are not covered by this business exception?

7 MR. GLENN: Well, yeah, it would be --  
8 well, I would have to go look. To me it's just the plain  
9 language of the rule. It says right here, excluding,  
10 however, in criminal case matters observed by police  
11 officers --

12 THE COURT: But she's saying it's not a  
13 record. It's just a log, but I guess that would be a  
14 record.

15 MR. GLENN: Well, that is a record. It's  
16 a record of police officer's observations in a criminal  
17 prosecution.

18 THE COURT: Well, he didn't observe  
19 nothing. He just kept a record. He's not claiming he  
20 observed anything.

21 MR. GLENN: But somebody had to observe  
22 something and record it. That's what I'm saying and in  
23 doing it in a criminal prosecution --

24 THE COURT: But, counsel, in all business  
25 record everybody don't observe what's in the record.

1 MR. GLENN: Well, even when we're talking  
2 about business records it gives you an idea of who, what  
3 witnesses are necessary in order to establish chain and  
4 custody. You still need to have the person to come in  
5 here. This doesn't remedy who at Receiving Hospital  
6 placed this in the rape kit and who did they give it to.

7 We have somebody who thinks they know, but  
8 nothing is sworn. Nothing's been testified to and when  
9 you start talking about laying a foundation and admitting  
10 something into evidence, that has to be -- there has to  
11 be sworn testimony for somebody coming in, I received  
12 this document or this envelope from the Receiving  
13 Hospital and I placed them into evidence.

14 Who put the evidence tag on? Who sealed  
15 this up? None of that's here. None of that's here.

16 THE COURT: Yeah, what about that, Mrs.  
17 Lozen? You don't have that.

18 MS. LOZEN: Judge, the doctor testified  
19 that the genital examination is not done by a nurse.  
20 It's done by the resident or the doctor. So the genital  
21 examination, we can tell that was done by the doctor.

22 THE COURT: Yeah.

23 MS. LOZEN: Because he testified to that.

24 THE COURT: Right.

25 MS. LOZEN: And then he said, I can't

1 specifically say that it was sealed, but it's my practice  
2 to seal them and that was the protocol and procedure to  
3 seal these rape kits.

4 THE COURT: Right.

5 MS. LOZEN: Now, Judge, as it relates to  
6 whether the kit was sealed or not, again the analyst  
7 who's sitting in the witness room can testify whether or  
8 not this kit was sealed and then the analyst --

9 THE COURT: Well, how do you get it from  
10 the hospital to the lab?

11 MS. LOZEN: Sergeant Dehem's testimony,  
12 Judge, that it was picked up --

13 THE COURT: Well, no, no, no, no, no, but  
14 somebody had to -- Sergeant Dehem just testified that it  
15 was in the lab. He don't know --

16 MS. LOZEN: Judge, and then he testifies  
17 that it was sent by UPS --

18 THE COURT: No, no, no, no, no, you're  
19 talking about going to the people that analyzed it.

20 MS. LOZEN: Yes.

21 THE COURT: I'm talking about from the  
22 hospital to the -- where is the testimony of record that  
23 it came from the hospital to Sergeant Dehem's lab,  
24 storage place?

25 MS. LOZEN: It was picked up at Detroit

1 Receiving Hospital on September 17th, of 1996.

2 THE COURT: By?

3 MS. LOZEN: Flora Humphrey.

4 THE COURT: But you don't have that  
5 testimony on the record.

6 MS. LOZEN: Sergeant Dehem testified to  
7 that.

8 THE COURT: Okay. What do you mean he  
9 testified to it? He didn't say he picked it up.

10 MS. LOZEN: No, he said --

11 THE COURT: How can he testify who picked  
12 it up?

13 MS. LOZEN: -- that the record  
14 indicates -- business record indicates that Sergeant  
15 Flora Humphrey picked it up from Detroit Receiving  
16 Hospital on September 17th, of 1996.

17 THE COURT: Counsel, you're treading on  
18 very thin ground --

19 MS. LOZEN: And, Judge --

20 THE COURT: You really are.

21 MS. LOZEN: -- I have --

22 THE COURT: There is no chain and custody  
23 established in this case.

24 MS. LOZEN: Judge, I do have Sergeant  
25 Dehem on call and Sergeant Dehem can bring the actual

1 rape kit down if we want to look at the actual rape kit.

2 THE COURT: Look, you had plenty of time  
3 to prepare on it. Now you want to go back and start over  
4 again.

5 MS. LOZEN: Judge, the issue is that --

6 THE COURT: This is getting to be a --

7 MS. LOZEN: I agree, Judge. The issue is  
8 that on Friday we were here for a pretrial and I wish we  
9 would have hashed this all out on Friday.

10 MR. GLENN: Well, we did hash it out. I  
11 said I wasn't waiving chain and custody. It's up to her  
12 to prove it. That's what we got on Friday. That's why  
13 we were here on Friday cause I said I wasn't waiving it.

14 THE COURT: Okay.

15 MR. GLENN: And then you wanted to add  
16 witnesses to a witness list and I said, fine, whatever  
17 witnesses you need to bring in to establish who at  
18 Receiving Hospital gave this rape kit to the police  
19 officer, what police officer received what and took it to  
20 the storage room, whoever that is, whether it's Officer  
21 Brown, whether it's Officer Humphrey, fine, bring 'em in  
22 here and I didn't waive them coming in, but I don't have  
23 a problem with them being added in.

24 You can bring 'em in. Bring 'em in. I  
25 didn't say that because they weren't on the witness list

1 I'm objecting to 'em coming in, but I want 'em here.

2 THE COURT: What do you mean you -- you  
3 didn't object -- oh, you said you object to --

4 MR. GLENN: I didn't object to them being  
5 added to the witness list --

6 THE COURT: Okay.

7 MR. GLENN: -- because he was there.

8 THE COURT: Why didn't you add 'em?

9 MS. LOZEN: Judge, I added Sergeant Dehem  
10 and Sergeant Dehem testified that he's pulling the rape  
11 kit --

12 THE COURT: So you made a strategic  
13 decision that you thought Dehem's testimony would be  
14 enough?

15 MS. LOZEN: Pursuant to the Rules of  
16 Evidence the business record exception also known as  
17 803.6, records of regularly conducted activity, and again  
18 through discovery I did provide defense counsel with the  
19 record I'm holding in my hand that indicated that it was  
20 picked up by Sergeant Flora Humphrey from Detroit  
21 Receiving Hospital, on September 17th, 1996, and then  
22 again, Judge, I would reflect back to the case law that I  
23 provided to you which indicates that I believe one of the  
24 cases talks about -- the very early cases talks about  
25 narcotics that were left in a --



1 THE COURT: But they established the chain  
2 of evidence in that case.

3 MS. LOZEN: Judge, there were gaps in that  
4 chain and custody and the Court said that gaps of the  
5 chain and custody go to weight not admissibility and so,  
6 again, if you give me a moment I have a --

7 THE COURT: Counsel, we're not going to  
8 keep giving moments. We have a jury today.

9 MS. LOZEN: Well, Judge --

10 THE COURT: I expect when you say you're  
11 ready to go to trial, you're ready, you know.

12 MS. LOZEN: When you're looking at People  
13 versus White, which is 208 Mich. App. 126, it's a 1994  
14 case and --

15 THE COURT: But the rule has been changed  
16 since then, 2003, the evidence rule as to expert  
17 witnesses has changed.

18 MS. LOZEN: Judge, I'm talking about chain  
19 and custody.

20 THE COURT: Okay. Go ahead.

21 MS. LOZEN: And gaps in chain and custody  
22 and, again, I'm reading from the case. It's on the  
23 actual page four, but I believe it would be --

24 THE COURT: What case are you talking  
25 about?

1 MS. LOZEN: People versus White. In that  
2 case it was a narcotics case where the narcotics were  
3 kept in a safe and then it was brought to trial, but  
4 nobody testified that it came out of the safe, if I'm  
5 summarizing the facts correctly, so nobody could say who  
6 actually took it out of the safe or put it in the safe  
7 and, again, it's just saying that our panels have  
8 concluded that admission of real evidence does not  
9 require a perfect chain of custody.

10 Deficiencies in the chain and custody go  
11 to the weight of the evidence, rather than the  
12 admissibility, once the proffered evidence is shown to a  
13 reasonable degree of certainty what a proponent claims,  
14 and, again, the doctor testified he collected the kit.

15 It was his responsibility to do the actual  
16 genital examination. It was his practice to seal the  
17 kits and now it was placed on an evidence tag number and  
18 picked up at the hospital three days later which, again,  
19 is a gap in the chain and custody, as long as I can show  
20 to a reasonable degree of certainty what its proponent  
21 claims, which I'm the proponent.

22 I'm claiming it's a rape kit and I can  
23 show that it came from the hospital to the Detroit  
24 property section and then this analyst is going to  
25 testify that when -- again through the Sorenson report

1       that it did, in fact, have an evidence tag number that  
2       matched the evidence tag number on what's already been  
3       admitted into evidence and also it had the victim's name  
4       on it and it also had the description on it which is the  
5       96-2005.

6               So this is also showing in line that this  
7       kit went from here to here to here and it was tested by  
8       this person and, again, the kit has this information on  
9       it and the information reflecting what would be the  
10      evidence tag number and the description number.

11             THE COURT: We don't have the evidence tag  
12      number. We don't have any of that stuff here.

13             MS. LOZEN: Judge, Sergeant Dehem  
14      testified to that yesterday.

15             THE COURT: But --

16             MS. LOZEN: And again, Judge, it's like me  
17      saying that instead of me bringing a gun and I bring a  
18      picture of the gun. It's bringing a picture in of  
19      something versus actually the item itself.

20             THE COURT: Well, counsel, I'm very, very  
21      concerned about the chain and custody. I'm very  
22      concerned about it.

23             MS. LOZEN: Well, then if I may, Judge,  
24      we'll have Miss Maggert continue her testimony and in  
25      route will be Sergeant Dehem. He's going to bring the

1       rape kit itself. We can admit the rape kit into  
2       evidence and that will, again, have the evidence tag  
3       number on it.

4               THE COURT: Okay. I'll go ahead with that  
5       because we got this jury, but I'm going to tell you right  
6       now, if you don't establish the chain and custody to my  
7       satisfaction I'm going to exclude all the testimony, I'm  
8       telling you right now.

9               I'm giving you forewarning because I'm not  
10       satisfied with the way this is coming in. There's no  
11       testimony how this got from the police department from  
12       the hospital to the police department. The doctor  
13       doesn't know whether he took the test or somebody else  
14       took the test. He doesn't know whether he sealed it or  
15       somebody else sealed it.

16              MS. LOZEN: Well, Judge, I disagree  
17       that --

18              THE COURT: This is a criminal case. This  
19       is not -- this is not --

20              MS. LOZEN: No, but I disagree with your  
21       summary.

22              THE COURT: Counsel, you have a right to  
23       disagree with my account -- my decisions, but you have to  
24       abide by 'em until the Court of Appeals tells me  
25       different.

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MS. LOZEN: Just that --

THE COURT: That's it.

MS. LOZEN: Judge, only the part about --

THE COURT: Call the jury out. I'm ready  
to go.

COURT OFFICER: All rise.

(10:45 A.M. the jury was brought into  
The courtroom)

THE COURT: Bring the lady back out.

(10:45 A.M. Catherine Maggert resumed  
The witness stand)

COURT OFFICER: You may be seated.

THE COURT: Come on up, ma'am. Did we  
swear you before?

THE WITNESS: Yes.

THE COURT: Okay. You're still under  
oath. Okay. Ladies and gentlemen of the Jury, we had a  
legal matter we had to take care of and that's why you  
were in the jury room. If you want to blame the delay on  
anyone, please blame it on me, okay.

All right. Thank you, very much. And  
we'll proceed. Go ahead, Miss Lozen.

MS. LOZEN: Thank you, Judge.

\* \* \*

C A T H E R I N E M A G G E R T

having been previously duly sworn in and by the Court was  
examined and testified upon her oath as follows:

DIRECT EXAMINATION

BY MS. LOZEN:

Q. Good morning.

A. Good morning.

Q. Would you state your name for the record?

A. Yes, my name is Catherine Maggert.

Q. And, Miss Maggert, how are you employed?

A. I am employed as a forensic scientist with the Michigan  
State Police Crime Lab in our Northville location. I  
work in the Biology Unit as a DNA analyst as part of a  
sexual assault team.

Q. And, Miss Maggert, how long have you been employed there?

A. Approximately eleven and a half years.

Q. And can you tell us what your educational background is?

A. Yes, I have a Bachelor of science from Michigan State  
University and I also have a master of science in  
criminal justice with a specialization in forensic  
science and that's also from Michigan State University.

Q. And now you said you're currently employed as a forensic  
scientist with the Michigan State Police?

A. Correct.

1 Q. Have you participated in any research regarding biology  
2 and forensic science?

3 A. Yes, I have. As part of my grad school requirements I  
4 was required to do a research project which eventually  
5 was published in one of the forensic science journals so  
6 outside of that I don't do research as part of my normal  
7 duties, but prior to working here I did.

8 Q. Thank you.

9 Do you belong to any professional  
10 organizations?

11 A. Yes, I'm a member of the Midwestern Association of  
12 Forensic Scientists and the American Academy of Forensic  
13 Science.

14 Q. Do you also participate in continuing training with the  
15 Michigan State Police?

16 A. Yes, I do. As one of the requirements as a DNA analyst I  
17 have to partake in about eight hours of continuing  
18 education every year. Typically that's achieved by going  
19 to an external meeting that's put on by one of the --  
20 either American Academy of Forensic Sciences or  
21 Midwestern Association of Forensic Scientists.

22 They do put on an annual meeting. There's  
23 a lot of workshops at these meetings. There's other  
24 meetings as well that I can attend, but as long as I can  
25 get eight hours of education in some area of DNA and keep

1 up with upcoming goings on in the field, that's part of  
2 the requirement.

3 Q. Now, is there an exam process, a certification process  
4 you have to go through?

5 A. There's no certification process that's a requirement  
6 currently. There was extensive training that I had to  
7 undergo prior to being able to conduct work on my own.

8 Q. Okay.

9 THE COURT: Wait. Wait. Wait. Do you  
10 have any questions as to her qualifications to testify as  
11 an expert in this area, Mr. Glenn?

12 MR. GLENN: I do.

13 THE COURT: Oh, you do? Okay. Well, you  
14 got to go ahead. I thought maybe you would accept her as  
15 an expert.

16 MS. LOZEN: Thank you, Judge.

17 THE COURT: Go ahead. I'm sorry.

18 BY MS. LOZEN:

19 Q. Now, this training process you described, were you  
20 satisfactory in that or can you tell us if you were  
21 proficient or what term would you use for it?

22 A. Sure.

23 So, again, prior to being able to conduct  
24 any type of case work on my own I underwent a training  
25 program both in areas of body fluid identification and



1 DNA testing. For both areas I was required to test a  
2 number of mock samples that would mimic what I would  
3 expect to see in case work. Lots of those samples I had  
4 written exams, oral exams, competency exams in both areas  
5 before I was able to -- before I was released to do this  
6 case work on my own.

7 Q. And were you satisfactory in the use of proficiency  
8 tests?

9 A. Well, I'm not speaking to proficiency tests. That's a  
10 different area, but in order to perform case work, yes, I  
11 was satisfactory in those areas. If you like I can  
12 discuss proficiency testing.

13 Q. So in addition to the training you had to also do  
14 proficiency tests?

15 A. Yes, twice a year in the area of DNA and once a year in  
16 the area of body fluid identification. I take an exam  
17 that is administered by an external agency called  
18 Collaborative Testing Services and they provide a test to  
19 each of the analysts at the laboratory.

20 I just finished my last DNA proficiency in  
21 body fluid identification, proficiency in the last month  
22 and a half. So basically they provide this test. It's  
23 samples and I have to test the samples kind of like I  
24 would in the laboratory with our methods that we use and  
25 once I am done with all of the testing I send my results

1 back to this testing agency who then indicates to our  
2 technical leader at the laboratory whether or not I  
3 successfully passed those tests. To date I have  
4 successfully passed all the tests that I have taken.

5 Q. Okay.

6 And now the lab that you're working at,  
7 the Michigan State Police Crime Lab, is that lab also  
8 accredited?

9 A. Yes, it is. We've had accreditation since 1984.

10 Q. Now, does the lab adhere to any professional guidelines  
11 developed for DNA analysis?

12 A. Yes, as part of our accreditation process we're required  
13 to follow certain guidelines that are placed by the  
14 accrediting body which have to do with quality control of  
15 our samples. They come in and regularly inspect our  
16 laboratory and ask questions of the analyst to make sure  
17 that everybody is doing things appropriately and things  
18 are being documented the way that they should be.

19 Q. And did the lab go through a certification process?

20 A. Outside of the accreditation process -- I guess that's  
21 what you mean.

22 Q. Is it the same thing essentially or --

23 A. Yes.

24 Q. Okay.

25 Now, have you ever qualified as an expert

1 in other jurisdictions?

2 A. Yes, I have.

3 Q. And also in this jurisdiction?

4 A. Yes, I have.

5 Q. And have you qualified as an expert in this building?

6 A. Yes.

7 Q. Okay. And about how many times?

8 A. It's been over fifty times I've been qualified.

9 Q. Now, how long have you been working for the Michigan  
10 State Police?

11 A. Just over eleven years. Almost eleven and a half.

12 Q. And you said about fifty times you qualified as an  
13 expert?

14 A. I've been called to give expert testimony over fifty  
15 times and they may not move officially to qualify me as  
16 part of the court proceedings, but I've been able to  
17 offer my expert opinion in all of those cases.

18 Q. And in the state of Michigan or in other states as well?

19 A. I've also testified in the state of California in San  
20 Diego County and I testified in St. Louis in the state of  
21 Missouri.

22 Q. And was that as an expert?

23 A. Yes, it was.

24 MS. LOZEN: Judge, at this time I'll move  
25 to voir dire the witness as to her qualifications to be

1 admitted as an expert in the degree -- or the area of  
2 serology as well as DNA analysis.

3 THE COURT: Subject to cross-examination.  
4 Go ahead, Mr. Glenn.

5 MR. GLENN: What experience have you had  
6 in serology? I heard about the DNA, but what about  
7 serology?

8 THE WITNESS: Well, serology is another  
9 term for body fluid identification so prior to doing any  
10 DNA testing I was a qualified body fluid identification  
11 analyst. So I went through extensive training for that  
12 prior to being able to do the case work.

13 MR. GLENN: Okay. And what training did  
14 you have in serology?

15 THE WITNESS: I was trained in the  
16 standard methods that our laboratory uses for body fluid  
17 identification so there's various tests to identify  
18 blood, semen, saliva. I was trained to look at hairs  
19 and how to properly process evidence for further DNA  
20 testing.

21 MR. GLENN: Okay. Now, you indicated  
22 that you were asked whether or not you were certified  
23 and you said there's no certification required, is that  
24 correct?

25 THE WITNESS: That is correct.

1 MR. GLENN: Now, is that no certification  
2 is required with the Michigan State Crime Lab or no  
3 certification required in the field of serology or DNA?

4 THE WITNESS: To my knowledge it's not a  
5 requirement across the board. It's not just a Michigan  
6 State Police thing. There is certification, programs  
7 that are out there that an individual can willingly take  
8 if they are interested.

9 MR. GLENN: All right. And have you been  
10 certified by a agency?

11 THE WITNESS: I do not have any  
12 certification specifically for this field, no.

13 MR. GLENN: Okay. And so you're just  
14 working with the Michigan State Crime Lab and you  
15 satisfied their standard for having you work in that lab,  
16 would that be correct?

17 THE WITNESS: I do, yes.

18 MR. GLENN: Okay. All right. Now, as  
19 part of your training do you have any training in  
20 probability of statistics?

21 THE WITNESS: I do have training in  
22 statistics, yes.

23 MR. GLENN: All right. What training is  
24 that?

25 THE WITNESS: Well, I took a course as

1 part of my graduate studies in statistics and I've been  
2 trained in the software program, the application of the  
3 calculations that are used in the statistics that we're  
4 currently using.

5 MR. GLENN: Okay. Software -- using  
6 software to calculate statistics is not the same thing as  
7 being proficient in probabilities of statistics?

8 THE WITNESS: I didn't say I was  
9 proficient in probabilities of statistics.

10 MR. GLENN: All right. You said you had a  
11 course, right? What was that course?

12 THE WITNESS: It was a general statistics  
13 course that was a requirement for my Master's studies.

14 MR. GLENN: Any other course other than  
15 that one course?

16 THE WITNESS: Aside from the training that  
17 I had received through the Michigan State Police and  
18 other agencies that have been brought in to provide  
19 statistics training, no, I haven't had any other course  
20 work.

21 MR. GLENN: Okay. All right. No  
22 certification as being a statistician?

23 THE WITNESS: Definitely not, no.

24 MR. GLENN: Okay. That's all I have, your  
25 Honor. Thank you.

1 THE COURT: Okay. The Court will accept  
2 her as an expert in the area of serology and testing. Go  
3 ahead.

4 MS. LOZEN: Judge --

5 MR. GLENN: Excuse me, Judge. I want to  
6 put the caveat that she's not an expert in probabilities  
7 of statistics.

8 THE COURT: Your objection is properly  
9 noted.

10 MR. GLENN: Thank you.

11 MS. LOZEN: Judge, just, I want to be  
12 clear that she's an expert in serology and forensic  
13 biology and DNA analysis.

14 THE COURT: Sure. Yes.

15 MS. LOZEN: Thank you.

16 BY MS. LOZEN (Continuing):

17 Q. So you've kind of already given us a summary of your  
18 duties with the Michigan State Police Biology Unit, is  
19 that correct?

20 A. Yes.

21 Q. Okay.

22 Can you tell us generally what forensic  
23 DNA analysis is?

24 A. Yes, well, let me back up. Would you like me to give a  
25 background on DNA itself?

1 Q. Yes, please.

2 A. So DNA stands for deoxyribonucleic acid and it's genetic  
3 material that's found in the majority of the cells that  
4 are in our bodies. Our DNA is responsible for our  
5 physical development so as humans we look and are a  
6 certain way because of our DNA.

7 We inherit our DNA from our parents. We  
8 got half of our DNA from our biological mother and have  
9 from biological father. DNA is about ninety-nine  
10 percent, maybe a little bit more, the same for all  
11 individuals, but there is about a one percent of the DNA  
12 that is known to be unique for all individuals and this  
13 is with the exception of identical twins who will have  
14 the same DNA and that is the basis for the testing that I  
15 do.

16 So the forensic DNA testing that I do  
17 involves looking at samples that have been submitted to  
18 the laboratory from a suspected criminal act. They're  
19 submitted to the laboratory. They're tested for either  
20 the presence of male DNA or for biological materials.

21 They can then be sent on for further DNA  
22 testing to try to develop a DNA profile from evidence  
23 items and reference samples that are submitted from  
24 individuals who may be involved in some way in a specific  
25 case.



1                   So what I do as a DNA analyst is I run DNA  
2                   testing on evidence samples and reference samples and  
3                   then for each specific case that I'm assigned I do  
4                   comparisons between the evidence and the references to  
5                   try to determine if there's any type of match between the  
6                   evidence and the reference.

7                   If there is a match I can apply a  
8                   statistical calculation which gives an estimate of how  
9                   common or how rare that particular DNA profile is in a  
10                  specific population group. So that's kind of an overview  
11                  of what I do on a daily basis.

12 Q.           Thank you.

13                  And so you indicated that DNA is different  
14                  from person to person?

15 A.           With the exception of identical twins, yes.

16 Q.           With the exception of identical twins. Okay.

17                  And, now, there's been testimony in this  
18                  case that the rape kit that we're discussing was from  
19                  1996?

20 A.           Correct.

21 Q.           Can DNA change at all through time?

22 A.           It can undergo a process of degradation or degrade which  
23                  means that things within the environment can break down  
24                  the DNA and when I'm testing something that is apparently  
25                  degraded I may not get all of the results that I'm hoping

1 to get from all the different areas on the DNA that I'm  
2 testing.

3 I might see areas where I don't get  
4 results from some of the areas and that's common when you  
5 have a degraded sample. So in that sense DNA can change  
6 over time.

7 Q. So it's degrading, though? Is there a difference between  
8 degrading and actually changing like an actual -- meaning  
9 that it came from a different person?

10 A. To my knowledge, no. The type itself would not change to  
11 a different type. It would just be degraded so that it  
12 wouldn't be detectable or wouldn't be detectable in an  
13 amount you can actually see.

14 Q. And so can environmental conditions perhaps cause this  
15 degradation?

16 A. Yes.

17 Q. And can you tell us what environmental conditions?

18 A. Sunlight can be damaging. Moisture, especially, can be  
19 very damaging. Any type of mold or bacterial  
20 contamination in the sample can kind of chew up the DNA  
21 and cause it to be not as perhaps as helpful as it would  
22 have been had it not been degraded.

23 Q. Okay. Now, are you familiar with the term rape kit?

24 A. Yes.

25 Q. And can you tell us what is a rape kit or a evidence

1 collection kit?

2 A. An evidence collection kit, as I would call it, is a --  
3 kind of a box of evidence that is collected from an  
4 individual who has sought some sort of medical treatment  
5 for a possible allegation of a sexual assault.

6 The kit -- and I have processed many of  
7 these over the years. They typically contain swabs that  
8 are collected from various orifices of the victim. It  
9 also may contain hairs. It may contain underwear, things  
10 that may have some type of evidential value for DNA  
11 identification purposes.

12 Q. Okay. One moment.

13 Okay. And now are these kits processed in  
14 any particular manner?

15 A. Well, there are different ways that kits can be  
16 processed. I have done the traditional screening as we  
17 would refer to it today in our laboratory which involved  
18 looking at the swabs and testing them for the presence of  
19 biological materials such as semen or blood or saliva.

20 The Michigan State Police laboratory in  
21 the last two years has switched the way in that they are  
22 processing these evidence collection kits in a way that  
23 is more speedy. So we do have quite a few of these that  
24 come in on a regular basis so we needed to find a way to  
25 speed up the process of doing the testing.

1                   So instead of doing the traditional  
2                   testing where we would look for the presence of semen or  
3                   blood or saliva on a sample we're doing a testing known  
4                   as male DNA screening and this is a process where each of  
5                   the samples that are present in the kit with swabs that  
6                   are evidence samples and potentially any type of  
7                   underwear that may be in the kit.

8                   A small portion of each of those samples  
9                   is tested. It undergoes a DNA process to try to  
10                  determine whether or not there is male DNA present in the  
11                  sample. So we're not trying to determine whether there's  
12                  semen there. We're not trying to determine if there's  
13                  blood there or anything like that.

14                 We're just interested in seeing if there's  
15                 male DNA present. This saves some sample -- it allows us  
16                 to do more testing on a sample for DNA purposes with the  
17                 hope of actually getting a result from that male donor  
18                 present in the sample so that is the current method that  
19                 the Michigan State Police is using.

20 Q.            Okay.

21                 Now, are you familiar with the rape kit  
22                 project to address backlogged rape kits that were  
23                 found -- or discovered in Detroit police property?

24 A.            Yes, I am.

25 Q.            Okay.

1 And what role did the Michigan State  
2 Police have as it relates to addressing the backlog?

3 A. Well, the Michigan State Police did assist in the  
4 processing of some of these kits. There were over eleven  
5 thousand of them I believe that were discovered just from  
6 the city of Detroit and we needed to find a way to get  
7 these kits processed and to do eleven thousand kits would  
8 absolutely drown us out at the laboratory so we did  
9 receive some federal grant money that allowed us to send  
10 out a lot of these kits either directly from MSP or  
11 directly from the Detroit Police Department to some  
12 private laboratories which then were responsible for  
13 doing the DNA testing on those particular kits.

14 So we've gotten through I want to say  
15 about ten thousand of those, eleven thousand of them so  
16 far and there's still more that obviously need to be  
17 tested, but it is an ongoing process and we've been  
18 getting results back from these private laboratories  
19 which we're then able to determine if there's CODIS  
20 eligibility which I can discuss later if you'd like as  
21 well.

22 Q. Sure.

23 Now, these private labs you discussed, how  
24 were they selected? On what qualifications do they have  
25 to meet to be considered for this project?

1 A. Well, that's a lot of business that was determined by the  
2 Michigan State Police DNA technical leaders. So the  
3 technical leader would go out to the specific  
4 laboratories. A lot of these laboratories are  
5 laboratories we've used over the years even prior to this  
6 project occurring so we were familiar with how they  
7 process the samples and the technical leader would go,  
8 have a site visit at these particular laboratories and  
9 determine whether or not the laboratory would be able to  
10 help out and take on some of these cases.

11 So it wasn't really a process that I was  
12 involved in too much, but it was all determined to be,  
13 you know -- they chose the laboratories that they thought  
14 would be the best for this particular project.

15 Q. Did the laboratories have to agree to test the kits in  
16 the same fashion that the Michigan State Police would?

17 A. Yes, I believe so.

18 MR. GLENN: Objection. How can she know  
19 that?

20 THE COURT: Sustain the objection. She  
21 said she wasn't even there. She didn't participate in  
22 that.

23 BY MS. LOZEN (Continuing):

24 Q. To test a kit, a rape kit, is there a particular process  
25 or another kit that's used?

1 A. There is a specific process that obviously Michigan State  
2 Police uses and we wanted to make sure that any lab that  
3 was processing the kits would utilize at least similar  
4 methodology so that the results either could be reviewed  
5 by us or that we would be able to take ownership of some  
6 of that data for CODIS entry purposes.

7 Q. So for you to actually even review their data did they  
8 have to perform the data or to collect the data in the  
9 same way you would?

10 A. Yes.

11 Q. So if they did it differently you would not be able to  
12 review their data?

13 A. If they used different DNA testing methods, a different  
14 amplification kit, for example, then anybody in our  
15 laboratory that's proficiency tested and then we would  
16 not be able to review those results.

17 MR. GLENN: Judge, I would object. She's  
18 talking about procedure, not what was actually done.  
19 Now, whether or not the procedures allow or require that  
20 something be done a certain way, that's one thing.  
21 Whether or not the actual kit was done that way is  
22 something else. So she can only testify to what the  
23 procedures are. She can't testify to whether or not the  
24 material in any type of kit was processed a concern way.

25 THE COURT: Your response, counsel.

1 MR. GLENN: All she could testify to is  
2 that --

3 MS. LOZEN: My response is that she did,  
4 in fact, review, as relates to this particular case, the  
5 data that came back from this vender lab, from this  
6 private lab, and so I know where --

7 THE COURT: You can question her as to  
8 this particular case.

9 MS. LOZEN: Yes, Judge.

10 BY MS. LOZEN (Continuing):

11 Q. So as it relates to this particular case -- I'm trying --  
12 I'm just jumping ahead. One moment. Did you prepare  
13 reports as it relates to this particular case?

14 A. Yes, I did.

15 Q. Okay. And --

16 MS. LOZEN: I just need to mark these,  
17 Judge.

18 THE COURT: Okay.

19 (People's Exhibit Numbers Five, Six and  
20 Seven were marked for identification by  
21 the Court Reporter)

22 MS. LOZEN: May I approach the witness,  
23 Judge?

24 THE COURT: Sure.  
25



1 BY MS. LOZEN (Continuing):

2 Q. Miss Maggert, I'm handing you what's been marked as  
3 People's Proposed Exhibit Five, Six and Seven. I'd like  
4 to you take a look at those and tell me if you're  
5 familiar with those and what they are?

6 A. Yes, these are the three laboratory reports that were  
7 authored by the Michigan State Police as part of this  
8 particular case proceedings.

9 Q. Okay.

10 And, if I may, tell us -- this is People's  
11 Proposed Exhibit Number Five. Is this record one?

12 A. Yes, it is.

13 Q. And People's Proposed Exhibit Six, is this record two?

14 A. Yes.

15 Q. And People's Proposed Exhibit Number Seven, is this  
16 record number three?

17 A. Yes.

18 MS. LOZEN: Judge, I'd move to admit  
19 People's One -- or, I'm sorry, Five, Six and Seven.

20 MR. GLENN: I'm objecting to the admission  
21 of record number three and that's the 703 that I talked  
22 about earlier and that has to do with -- that has to do  
23 with facts -- assuming facts that are not in evidence  
24 here.

25 THE COURT: Okay. I'll move on that and I

1 will allow it.

2 MS. LOZEN: Thank you, Judge.

3 THE COURT: Your objection is properly  
4 noted.

5 MR. GLENN: Thank you, your Honor.

6 BY MS. LOZEN (Continuing):

7 Q. So, Miss Maggert, I'd like to direct your attention to  
8 record number one. Do you have a copy of that?

9 A. Yes, I do.

10 MS. LOZEN: Okay. And this for the record  
11 is People's Exhibit Number Five.

12 BY MS. LOZEN (Continuing):

13 Q. So are you the author of this report?

14 A. Yes, I am.

15 Q. And does it have a laboratory number?

16 A. Yes, the laboratory number is K-i-t, or Kit, 14-20030.

17 Q. And, again, this is record number one?

18 A. Correct.

19 Q. Does it have a date completed on it?

20 A. Yes, January 26, of 2015.

21 Q. Is there an agency number associated with it?

22 A. Yes, there are two listed.

23 Q. Can you read those for us, please?

24 A. Sure. E28034496 and E280344.

25 Q. And does it list the victim's name?

- 1 A. Yes, it does.
- 2 Q. And can you --
- 3 A. Talisha Sams.
- 4 Q. And then does your report indicate another report from
- 5 Sorenson Forensics?
- 6 A. Yes, my report is a bit of a cover report, if you will,
- 7 attaching the report by the Sorenson laboratory which
- 8 documents their results from the actual processing of the
- 9 kit.
- 10 Q. And does the Sorenson report list the victim's name or a
- 11 case name?
- 12 A. There is a victim's name listed, yes.
- 13 Q. What was that name?
- 14 A. Talisha Sams.
- 15 Q. And then who was the author of this report?
- 16 A. The author is Derek Cutler.
- 17 Q. And what was his title?
- 18 A. Forensic DNA analyst one.
- 19 Q. And then again does this list the client case number on
- 20 the Sorenson report?
- 21 A. Yes, it does.
- 22 Q. And what was that client case number?
- 23 A. It's 96-2005.
- 24 Q. And again, the Sorenson case number, can you give us
- 25 that?

1 A. Sure, it's SF-013199.

2 Q. And so, again, you say your report is the cover report  
3 for the Sorenson report?

4 A. Correct.

5 Q. And so to produce your report did you have to review  
6 the data that Sorenson -- the analyst from Sorenson  
7 produced?

8 A. Only to an extent. The technical and administrative  
9 reviews that were done on the Sorenson data were actually  
10 outsourced to another laboratory at Marshall University.  
11 So the Marshall University staff were trained in the ways  
12 that Michigan State Police would do a technical review on  
13 an outsource laboratory's report and they were the ones  
14 who then reviewed Sorenson's information.

15 Once that review is complete that  
16 information was sent back to the Michigan State Police  
17 and the Michigan State Police was strictly responsible  
18 for looking at profiles that had been identified by both  
19 Sorenson and Marshall University as being eligible for  
20 CODIS entry purposes and so my role with this particular  
21 report was to look at that profile that was developed  
22 that they had deemed eligible for CODIS, see if I agree  
23 with that or not and in this case, yes, I agreed with it  
24 and I then put that particular sample into the CODIS  
25 database.

1 Q. So a technical review is for what purpose?

2 A. To make sure that the results that were achieved were  
3 consistent with the testing methods that they used and  
4 that everything that they did do testing on was reported  
5 accordingly into the report.

6 Q. So it's like a double check?

7 A. Yes.

8 Q. And then you, again, also reviewed the data to like, as  
9 you previously described, to a certain degree just to  
10 make sure it was CODIS eligible?

11 A. That's true, yes.

12 Q. Now, we're using this term CODIS. Who has access to  
13 CODIS?

14 A. Well, CODIS, if I may, stands for the combined DNA index  
15 system, and it's a DNA database that is maintained by the  
16 FBI and this database contains DNA profiles from various  
17 states in the United States that have submitted their  
18 profiles from evidence to this database.

19 It also contains DNA profiles from  
20 individuals who are required by law to submit a sample to  
21 the CODIS database. The database can be helpful when you  
22 have a case where you don't have an association between  
23 an evidence sample and a possible person of interest. So  
24 the database so potentially links two different cases  
25 together through evidence or a case to an individual

1           that's in the database and that information can then be  
2           reported back to the Michigan State Police for further  
3           review.

4   Q.     But to have access to CODIS do you have to be a law  
5           enforcement agency?

6   A.     To -- yes, to have access you have to be in an accredited  
7           laboratory within the system to be able to have access.

8   Q.     And is the Michigan State Police an accredited laboratory  
9           that has access to this --

10   A.    Yes.

11   Q.    -- database?

12   A.    Yes.

13   Q.    Now, Sorenson, for example, is a private lab. Do they  
14           have access to CODIS?

15   A.    No, they do not.

16   Q.    Now, did the Sorenson report give an inventory of the  
17           kit?

18   A.    It did give an inventory in the report specifically to  
19           the items that they actually did testing on. There may  
20           be other items that were present in the kit that are not  
21           listed here.

22   Q.    Okay.

23                               And so the items that they did testing on,  
24           what are those items?

25   A.    They did testing on vaginal swabs, on genital gauze, on

1 oral swabs and they had two reference samples from  
2 Talisha Sams.

3 Q. And then did they do serology on the vaginal swabs?

4 A. Based on this report, yes, it looks like they did do some  
5 serological testing on the vaginal swabs.

6 Q. And what was that result?

7 A. Serological testing, if I can read, for the presence of  
8 male DNA was positive. Testing for saliva was negative  
9 and testing for semen was positive.

10 Q. And then as it relates to the genital gauze, was serology  
11 done on the genital gauze?

12 A. Yes, and it looks like prior to them doing the  
13 serological testing they had identified an area on this  
14 gauze that was positive for an alternate light source  
15 which is a testing method where -- and I've done this  
16 many times -- where you apply a light kind of like a  
17 black light, if you will, to the item to see if anything  
18 glows on the item and that can be indicative of  
19 biological material present.

20 So they're indicating that there was an  
21 alternate light source positive stain on this genital  
22 gauze that serological testing for the presence of male  
23 DNA was positive, testing for saliva was negative and  
24 testing for semen was inconclusive.

25 Q. Okay.

1                   And then the oral swabs were the third  
2                   item in the kit, was serological testing done on that?

3 A.       Yes, on the oral swab sample serological testing for the  
4                   presence of male DNA was negative.

5 Q.       And so no other testing was done on that?

6 A.       To my knowledge, no.

7 Q.       Okay.

8                   And then the reference samples for Talisha  
9                   Sams, was testing done on those?

10 A.       They did do DNA typing on that particular sample. There  
11               was no serological testing done which is pretty standard.

12 Q.       And did they develop a DNA profile?

13 A.       Yes, they did.

14 Q.       And that was for Talisha Sams?

15 A.       Yes.

16 Q.       Okay.

17                   And then as it relates to the vaginal  
18                   swabs, can you tell us at this point, when you do -- when  
19                   you look at like for example a vaginal swab are there  
20                   fractions that you look at?

21 A.       Yes, so as far as fractions are concerned that  
22                   nomenclature has to do with the testing method that kind  
23                   of initiates the DNA testing process. There's an  
24                   extraction step at the beginning of the DNA testing  
25                   process and this is a step which you add chemicals to the



1 particular sample that you're trying to isolate the DNA  
2 from which helps to isolate the DNA and any time you have  
3 a sample where there's an indication of semen present in  
4 the sample a different extraction method is performed and  
5 this takes one sample and splits it into two fractions so  
6 there will be an epithelial fraction and a sperm  
7 fraction.

8 The goal of this is to split the sample  
9 into two portions. They're carried out as two separate  
10 samples from there on out. The goal is to get cellular  
11 material, DNA material, from the female present just in  
12 the epithelial fraction and to separate out cells that  
13 are present from the male, typically sperm cells, present  
14 in the sperm fraction.

15 So that was what was done in this  
16 particular case, very common practiced utilized at our  
17 laboratory as well. And so they carried out the testing  
18 from there on out as the two fractions being separate  
19 entities.

20 Q. So you're trying to isolate sperm cells from everything  
21 else?

22 A. That's correct.

23 Q. And everything else, all these other cells, could  
24 potentially tell what examples of what other cells these  
25 could be?

1 A. Well, we call it the epithelial fraction cause we're  
2 looking for epithelial cells which are cells that line  
3 body surfaces. So when you're talking about a vaginal  
4 swab you're going to be picking up epithelial cells from  
5 the lining of the vagina on the swab so you could have  
6 epithelial cells from that particular area present in  
7 that epithelial fraction in the sample.

8 Q. And so that separation was done in this case?

9 A. Correct.

10 Q. And as it relates to the epithelial fraction of the  
11 vaginal swabs what were the results?

12 A. Well, their conclusions state a mixture of DNA profiles  
13 from a minimum of two contributors was obtained from this  
14 item. The major DNA profile matches the DNA profile  
15 obtained from Talisha Sams. The minor portion of this  
16 mixture is inconclusive.

17 Q. And we'll get to that when you -- cause you actually did  
18 some analysis on this as well, correct, or at least you  
19 reviewed the data?

20 A. I reviewed the data and reported it under our reporting  
21 guidelines, yes.

22 Q. Okay. And that's in record three?

23 A. Correct.

24 Q. We'll talk about that later.

25 A. Correct.

1 Q. And then as it relates to the vaginal swabs, the sperm  
2 fraction, can you tell us what the findings were?

3 A. Their findings indicate a mixture of DNA profile for a  
4 minimum of two contributors, at least one of which  
5 genetically types as male was obtained from this item.  
6 The major DNA profile obtained is attributable to unknown  
7 male number one, and is suitable for comparison. The  
8 minor portion of this mixture is inconclusive.

9 Q. Okay.

10 And then as it relates to the genital  
11 gauze, the epithelial fraction, what was their finding?

12 A. Their findings were a DNA profile that genetically types  
13 as female was obtained from this item. This DNA profile  
14 matches the DNA profile obtained from Talisha Sams.

15 Q. Is that something you'd expect to see?

16 A. In an epithelial fraction from an intimate sample such as  
17 that, yes.

18 Q. And then there's a sperm fraction of the genital gauze.  
19 What were the results?

20 A. Their results indicate a mixture of DNA profiles from a  
21 minimum of two contributors, at least one of which  
22 genetically types as male was obtained from this item.  
23 The major DNA profile obtained is attributable to unknown  
24 male number one and is suitable for comparison. The  
25 minor portion of this mixture is inconclusive.

1 Q. And then as it relates to the oral swabs, the serological  
2 testing for male DNA was negative. Did they do any DNA  
3 analysis on the oral swabs?

4 A. It does not appear so, no.

5 Q. Okay.

6 And then you -- so they're talking about  
7 as it relates to the vaginal swab sperm fraction and the  
8 genital gauze epithelial fraction they're relating --  
9 they're discussing this unknown male one? Am I reading  
10 that correct?

11 A. Correct. It should be the sperm fraction of both of the  
12 samples, not the epithelial fraction.

13 Q. Okay.

14 So the sperm fraction of both samples  
15 they're discussing this unknown male one?

16 A. Correct.

17 Q. Did you take that unknown male one, that profile, and  
18 what did you do with it?

19 A. Well, I entered the major DNA types that were  
20 attributable to this unknown male number one. I  
21 physically put those into the CODIS database for  
22 searching purposes.

23 Q. Okay.

24 And that's what you concluded in record  
25 number one?

1 A. Correct.

2 Q. Did you do any other work as relates to record number  
3 one?

4 A. I did not.

5 Q. Okay.

6 Now, I'd like to -- do you know in the  
7 Sorenson information that you obtained or that you had  
8 did they indicate whether the kit was sealed, if you  
9 know?

10 A. I didn't go a hundred percent fully through all of their  
11 notes. I didn't specifically see it documented, but  
12 could it be in there? Sure.

13 MR. GLENN: Objection. If she doesn't  
14 know --

15 THE COURT: Well, if you don't know you  
16 just say you don't know.

17 MS. LOZEN: That's fine, Judge. Thank  
18 you.

19 BY MS. LOZEN (Continuing):

20 Q. Okay.

21 So I'd like to now move you to record  
22 number two which is People's Exhibit Number Six and who  
23 is that authored by?

24 A. I don't have a copy of that report with me.

25 MS. LOZEN: Oh, may I approach, Judge?

1 THE COURT: Sure.

2 BY MS. LOZEN (Continuing):

3 Q. I'm handing you what's been marked as People's Exhibit  
4 Number Six.

5 A. Record number two was authored by forensic scientist  
6 Joshua Strong from our CODIS unit in the Lansing  
7 laboratory.

8 Q. And does it have a kit number on it?

9 A. Yes, the laboratory number is Kit 14-20030.

10 Q. And is that the same kit number from record one?

11 A. Yes.

12 Q. And does it have an agency number on there?

13 A. Yes, it does.

14 Q. And what is it?

15 A. There are two listed, the same two that I had previously  
16 mentioned, E 28034496 and E 280344.

17 Q. And then the date completed?

18 A. Date completed is February 26, of 2015.

19 Q. And did they list the victim?

20 A. Yes, it does.

21 Q. And what's the victim's name?

22 A. Talisha Sams.

23 Q. And now what are the conclusions of record number two?  
24 Can you just tell us what happened?

25 A. Yes, this report, again, was authored by a member of our

1 CODIS unit in Lansing so anytime there is an association  
2 in the CODIS base between an evidence sample and an  
3 individual that's already in the CODIS database the CODIS  
4 unit will issue a report to the investigating agency  
5 indicating the identity of this person that this evidence  
6 sample hit to. So this details that information.

7 Q. So the vaginal swab, the profile that you uploaded into  
8 the vaginal swab there was an association?

9 A. Correct.

10 Q. And the association, did it give a name to the person it  
11 was associated with?

12 A. Yes, Arthur Jemison.

13 Q. And did it give a date of birth?

14 A. Yes, 10-23-1974.

15 Q. Okay.

16 And then did the lab indicate or does the  
17 lab have a standard -- or do they request a known sample  
18 and why do they do that?

19 A. Yes, anytime there is an association between an evidence  
20 sample and an individual in the database this report will  
21 indicate as part of our requirements in the state of  
22 Michigan that an additional sample be collected from the  
23 individual so named in the report so that a final  
24 comparison can be done to the original evidence sample  
25 because us, at the laboratory, we don't have access to

1 the actual profile information in the CODIS database so  
2 we need to do a test on an additional sample collected  
3 from this person, generate a DNA profile from that and  
4 then we can do a direct comparison to the evidence sample  
5 to see if there's an association and that's just kind of  
6 one final check and balance that we require.

7 Q. And is this part of -- you said the lab requires it?

8 A. Yes.

9 MS. LOZEN: Okay. May I approach and get  
10 record two?

11 THE COURT: You may.

12 MS. LOZEN: Thank you.

13 BY MS. LOZEN (Continuing):

14 Q. Now I'd like to direct your attention to record number  
15 three. Are you the author of record number three?

16 A. Yes, I am.

17 (People's Exhibit Number Eight was marked  
18 for identification by the Court Reporter)

19 MS. LOZEN: May I approach the witness,  
20 Judge?

21 THE COURT: Sure.

22 BY MS. LOZEN (Continuing):

23 Q. Showing you what's been marked as People's Exhibit  
24 Number -- Proposed Exhibit Number Eight, are you familiar  
25 with this?



1 A. Yes.

2 Q. And can you tell us what it is?

3 A. It is an article that was provided it looks like by the  
4 Promega Company, one of the corporations that we utilize  
5 at the laboratory and it looks like it's listing some  
6 frequency information.

7 Q. Would you use that -- does that aid you or did you use  
8 the information contained in there when you were  
9 producing record number three?

10 A. Yes, some of this information would be utilized in the  
11 statistics database that is utilized to develop these  
12 statistical calculations.

13 MS. LOZEN: Judge, I'd move to admit  
14 record number -- or this People's Proposed Eight.

15 MR. GLENN: I object. It's not a learned  
16 treatises. It's just information off of the internet.  
17 It's hearsay.

18 MS. LOZEN: Judge, it's authored by this  
19 agency that provided software to this analyst and then  
20 she used it to develop the statistics.

21 THE COURT: But is it a learned treatise?  
22 Is that the rule that you're trying to get it in under?

23 MS. LOZEN: I don't believe it's a  
24 learned -- I don't think that's the rule, Judge. I don't  
25 think that's required under the rule.

1 THE COURT: What rule are you intending to  
2 get that in under, counsel?

3 MS. LOZEN: Judge, it's -- I believe  
4 defense counsel is objecting under 703 and that's facts  
5 or data.

6 THE COURT: 703?

7 MR. GLENN: No, it's not a learned tretus.  
8 It's hearsay unless it's a learned tretus.

9 THE COURT: 703 is the rule we were  
10 arguing about earlier.

11 MR. GLENN: Right.

12 THE COURT: Could I see the doctrine?

13 MS. LOZEN: Yes, Judge. May I approach?

14 THE COURT: What are you attempting to get  
15 from her on this document, counsel?

16 MS. LOZEN: Judge, she -- when she  
17 performed her statistics she bases it upon information --

18 THE COURT: From this document.

19 MS. LOZEN: -- and it's the information  
20 from the document so that's how she bases her  
21 conclusions. After she performs the statistics she draw  
22 a conclusion and that conclusion comes from the data  
23 that's in that article.

24 THE COURT: Counsel.

25 MR. GLENN: An article is not a tretus,

1 learned tretus. That is not something that she uses in  
2 her profession. That is something that's just pulled off  
3 the internet.

4 THE COURT: Let's ask a few more  
5 questions. Is that a document used in your profession?

6 THE WITNESS: There are documents -- and  
7 if I misspoke, I'm not sure if that's the exact specific  
8 article that we have referenced in our procedure guides.  
9 There is a short one page briefing that we reference in  
10 our standard operating procedures that indicates this is  
11 the article that we're using that lists all the different  
12 frequencies for the DNA types.

13 That's all put into and preprogrammed into  
14 a statistical program that we utilize called pop stats  
15 and it's maintained by the FBI.

16 THE COURT: I'll allow it.

17 MS. LOZEN: Thank you, Judge. So I move  
18 to admit Eight.

19 THE COURT: Okay. I'll admit it over his  
20 objection.

21 MR. GLENN: Thank you.

22 BY MS. LOZEN (Continuing):

23 Q. So I'm getting to record number three. Did you obtain a  
24 known buccal swab from Arthur Jemison or did somebody  
25 provide you with a known buccal swab from Arthur Jemison?

1 A. Yes, a known buccal swab from Arthur Jemison was  
2 submitted to the laboratory for DNA testing purposes.

3 Q. And the record number three, which was admitted as  
4 Exhibit Number Seven, says that -- it says container  
5 number two. Can you describe for us what container  
6 number two is?

7 A. Container number two is documented as a sealed manila  
8 envelope labeled with tag one and that contained item kit  
9 14-20030-2, known buccal from Arthur Jemison.

10 Q. Okay.

11 And then what did you do with it or what  
12 was done with it?

13 A. In this particular case the buccal sample was prepared by  
14 an additional analyst. They took a portion of that  
15 particular buccal sample.

16 MR. GLENN: I'm objecting to what anybody  
17 else did before her without the proper foundation, unless  
18 she was present to see what was done before she got  
19 anything before she analyzed it. 703. That's not in  
20 evidence and that's not in any of the reports. She's  
21 talking about something -- she's talking about  
22 evidence -- she's talking about facts that are not in  
23 evidence and according to 703 everything she bases her  
24 opinion on must be in evidence and that's not in  
25 evidence.

1 THE COURT: You've made your objection.

2 It's properly noted. Okay. Go ahead.

3 BY MS. LOZEN:

4 Q. Go ahead.

5 A. In this particular case, and this is a standard protocol  
6 that we utilize at the laboratory the buccal sample was  
7 opened by another analyst. They took a small cutting  
8 from that particular buccal sample, put it in a tube with  
9 a sticker labeling it with the correct item number and  
10 then they were responsible for doing the DNA testing and  
11 developing that DNA profile from that sample.

12 Q. And then what did you do with that profile that was  
13 developed?

14 A. Once that testing was completed by this other analyst I  
15 was provided with the data from the DNA profile and then  
16 I did a direct comparison of that buccal sample data back  
17 to the data that was generated by Sorenson.

18 MR. GLENN: I renew my objection. She's  
19 just looking at data that somebody else has processed and  
20 she's just doing a comparison. She hasn't done any of  
21 the work here. She's relying on work that somebody else  
22 has done and that's --

23 THE COURT: Is that right, ma'am?

24 THE WITNESS: It is correct. It is a  
25 standard process, though, in our laboratory.

1 MR. GLENN: But it's still -- whether or  
2 not it's a standard process this has to be done in a  
3 proper way and the foundation for this work to be done,  
4 what was done, who did it, why they did it and what they  
5 found before they gave it to her needs to be put into  
6 evidence first. That hasn't been done here and so I'll  
7 object to anything that she's relying on.

8 THE COURT: I think so, Mrs. Lozen. I  
9 think so.

10 BY MS. LOZEN (Continuing):

11 Q. Miss Maggert, is this a standard procedure, correct?

12 A. Correct.

13 Q. And did this person even prepare a report?

14 A. They did not.

15 Q. And do you know who this person is?

16 A. Yes, I do.

17 Q. Who was it?

18 A. Forensic Scientist Erica Caster.

19 Q. Okay. Where does she work at?

20 A. She works in the same unit, same laboratory as I do.

21 Q. Okay. And --

22 MR. GLENN: Your Honor, if I might?  
23 Without a report how can anybody cross-examine anything  
24 that she did? How can anybody check --

25 THE COURT: Did she make a report, Mrs.

1 Maggert?

2 THE WITNESS: No, the work she did is  
3 documented in this particular report and I --

4 THE COURT: But who prepared that report?

5 THE WITNESS: I did.

6 MR. GLENN: She -- yeah, she just sat down  
7 and she compiled somebody else's work and then she's  
8 presenting it as has been authenticated and  
9 trustworthiness to something that's not been done here.  
10 That's the problem that you have here.

11 This is evidence here that's being --  
12 she's basing her opinion on someone else's work, somebody  
13 that hasn't been brought this. They haven't submitted a  
14 report. There's no way to cross-examine any of the  
15 things that they've done here.

16 703 is a safeguard for that and that is  
17 why I'm talking about this so much. The opinion of  
18 any expert has to be based upon facts that's not in  
19 evidence -- I mean, facts that are in evidence. That's  
20 simply not in evidence.

21 That's one of many things that are not in  
22 evidence. So, again, once again, I'm objecting to her  
23 testifying to something that she's -- that she's talking  
24 about that is premised upon someone else's work and that  
25 other person's work is simply not in evidence here.

1 THE COURT: Well, it is in evidence as to  
2 the report, is that correct?

3 MR. GLENN: There is no report. The  
4 person that did the report didn't do a report. All she  
5 did was summarize what somebody else did. That's the  
6 whole problem. There's no report here from what anybody  
7 else has done. She -- she filed a report, but the person  
8 that did the preliminary analysis that did the  
9 preliminary work did not file a report, did not testify  
10 in this case.

11 THE COURT: How did you come by the  
12 information that the person did the preliminary work?

13 THE WITNESS: Um, it was all provided to  
14 me. I then reviewed it to make sure --

15 THE COURT: Provided to you how?

16 THE WITNESS: Electronically.

17 THE COURT: Isn't there a document  
18 somewhere that --

19 THE WITNESS: There is electronic  
20 documents that are stored within the case file itself  
21 that document what the actual evidence --

22 THE COURT: No hard copies were made of  
23 it?

24 THE WITNESS: We typically don't have hard  
25 copies of anything anymore. We can print everything



1 out --

2 THE COURT: Well, that's what I'm talking  
3 about.

4 THE WITNESS: -- but we're pretty  
5 paperless.

6 THE COURT: Well, that's what I'm talking  
7 about. I'm not computer literate so when I refer to a  
8 hard copy I'm talking about something that is printed  
9 out.

10 THE WITNESS: Oh, it can be printed out,  
11 yes.

12 THE COURT: You never gave it to -- I  
13 mean, nobody never gave it to you, Mrs. Lozen?

14 MS. LOZEN: No, Judge, we get the record  
15 number three which I believe contains the -- what Miss  
16 Maggert's already testified to, the summary but, Judge, I  
17 could say that in discovery the Defendant did get this  
18 electronic file that Miss Maggert's testifying to. So he  
19 did receive a copy of this electronic file. It was  
20 produced on a CD.

21 MR. GLENN: It's not in evidence.

22 THE COURT: The electronic file referred  
23 to information that she's referring to was received by  
24 you, Mr. --

25 MR. GLENN: I got a disk with a bunch of

1 data on it. Now, whether or not that's what this analyst  
2 is --

3 THE COURT: The objection's overruled. Go  
4 ahead.

5 BY MS. LOZEN (Continuing):

6 Q. So, Miss Maggert, there's a profile from the buccal swab  
7 and this buccal swab was labeled with Arthur Jemison's  
8 name on it?

9 A. Correct.

10 Q. And then what did you do with it?

11 A. I took the data from that profile and I compared it to  
12 the data that was previously generated from the Sorenson  
13 laboratory and I did a comparison and there was a match  
14 between the major donor -- do you want me to go into that  
15 at this point?

16 Q. Yes.

17 So do you have their five conclusions on  
18 your report, is that correct?

19 A. Correct.

20 Q. And can you tell us what conclusion number one is?

21 A. Conclusion number one indicates a DNA profile was  
22 obtained from the buccal sample from Arthur Jemison.

23 Q. Okay.

24 And then conclusion number two, can you  
25 tell us what conclusion number two is?

1 A. Yes, conclusion number two is the results from the  
2 epithelial fraction from the vaginal swab sample. The  
3 DNA profile from the epithelial fraction is consistent  
4 with the victim. There was one additional type that was  
5 detected that was foreign to the victim which can  
6 indicate either an additional donor or an artifact and  
7 Mr. Jemison was excluded as a possible donor to the DNA  
8 profile from the epithelial fraction of the vaginal swab  
9 sample.

10 Q. So, again, when we talked earlier have the sperm fraction  
11 and the epithelial fraction which are all the extra  
12 cells?

13 A. The epithelial cells, yes.

14 Q. And so Mr. Jemison was excluded from the epithelial  
15 cells?

16 A. Correct.

17 Q. Now, can you tell us, when you said that the DNA profile  
18 you did have was consistent with the victim is that what  
19 you'd expect to see?

20 A. Yes.

21 Q. And then there's a sentence that says, one additional DNA  
22 type foreign to reference of Miss Sams was obtained  
23 indicating an additional donor or artifact. Can you tell  
24 us what an additional donor or artifact means?

25 A. For this particular sample I had a predominant DNA

1 profile that was consistent with Talisha Sams and then I  
2 had one additional DNA type that was detected that could  
3 be from another person or it could be what we call an  
4 artifact which is nongenetic information that sometimes  
5 can mimic what a DNA type looks like.

6 So if I only have one additional piece of  
7 information all I can really do is report that it's  
8 there. I can't say for sure whether it's another person  
9 or whether it's one of these artifacts that are commonly  
10 seen in the laboratory just letting you know that it is  
11 there. I can't make any type of comparisons to it.

12 Q. So when we were talking about the DNA profile that was  
13 there, Miss Sams's profile, how many alleles were in that  
14 profile?

15 A. I didn't specifically count how many of her alleles. It  
16 is what I would call a full profile so there was data at  
17 all of the different areas that were tested.

18 Q. Well, can you tell us just for the Jury so they know,  
19 what is an allele?

20 A. An allele is a form of a gene, an alternate form of a  
21 gene. So, again I mentioned you get one -- or half of  
22 our DNA from mom and half of our DNA from dad. So for  
23 each different area or gene that we're looking at on the  
24 DNA we're going to get an allele from mom and an allele  
25 from dad.

1                   So for any given DNA profile from one  
2                   person I would expect to see at most two DNA types or  
3                   alleles unless mom and dad shared the same allele and  
4                   then I would see just one DNA type present.

5                   So that's when I'm looking at a DNA  
6                   profile I'm determining whether or not there could be  
7                   more than one contributor present and sample. These are  
8                   the kinds of things that I'm looking for.

9                   In this particular epithelial fraction  
10                  there was one additional piece of information present  
11                  that could have been another allele from another person  
12                  or it could have been an artifact which is, again,  
13                  something that I'm seeing pretty regularly in the  
14                  laboratory as part of your process and I can't say with  
15                  any certainty whether it's actually from another person  
16                  or from an artifact. I can just indicate that it's  
17                  present, full disclosure, but I can't do anything further  
18                  with it.

19 Q.       So the human geno, how many alleles are we talking about,  
20           billions?

21 A.       Yes. Yes.

22 Q.       Okay. And here you have one?

23 A.       This is one that may or may not even be an allele. I  
24           can't say for sure whether it is or not.

25 Q.       You can't even call it an allele?

1 A. Correct.

2 Q. Okay.

3 MR. GLENN: Objection. All she can  
4 testify to is whether or not it's an allele or artifact.

5 THE COURT: Well, she said she couldn't  
6 call it an allele.

7 MR. GLENN: Well, she -- well, the  
8 prosecutor indicated that --

9 THE COURT: Overruled, counsel. Sit down.

10 MR. GLENN: All right. All right.

11 BY MS. LOZEN (Continuing):

12 Q. And, again, an artifact again you said is -- what is an  
13 artifact?

14 A. It can be a number of things that can occur during the  
15 DNA testing process from the --

16 THE COURT: We've been over that, counsel.  
17 We've been over that.

18 MS. LOZEN: Okay, Judge.

19 BY MS. LOZEN (Continuing):

20 Q. Now, you indicated that Mr. Jemison was excluded in  
21 conclusion number two, correct?

22 A. Correct.

23 Q. Now, conclusion number three, which piece of evidence are  
24 we talking about here?

25

1 A. This is the sperm fraction from the vaginal swab sample.

2 Q. And what were your conclusions regarding the sperm  
3 fraction of the vaginal swab?

4 A. The DNA types obtained from the sperm fraction of the  
5 vaginal swab sample are consistent with a mixture of at  
6 least two individuals including a major male contributor  
7 and Arthur Jemison matched the major donor to the sperm  
8 fraction of the vaginal swab sample.

9 Q. Okay. And does your conclusion continue?

10 A. Yes, and so based on this match I can state that in the  
11 absence of identical twins or close relatives it can be  
12 concluded to a reasonable degree of scientific certainty  
13 that the DNA from the major donor to the sperm fraction  
14 of the vaginal swab sample and from Arthur Jemison are  
15 from the same individual.

16 Q. Now, you're using the word match. Why does the lab use  
17 the word match?

18 A. Again, when I do a comparison between an evidence sample  
19 and a reference sample I'm trying to determine if all of  
20 the information present in the evidence sample matches  
21 the information in the reference sample and when there is  
22 a match that's when we apply the statistical calculation.

23 In this particular sample the statistical  
24 results that were calculated were above a certain  
25 threshold that was set at the laboratory that I then used

1           this -- what we call a source attribution statement which  
2           says that basically that DNA is from Mr. Jemison.

3   Q.     Now, this source attribution statement, is the Michigan  
4           State Police the only lab that uses this statement or is  
5           this something that's used in the forensic science  
6           community?

7   A.     It has been widely used across the country, yes.

8   Q.     Okay.

9                         And now you said that in order to say the  
10           word match that the statistics which you use -- you said  
11           it has to be over a certain threshold?

12  A.     Yes.

13  Q.     And did you calculate that threshold?

14  A.     It was calculated and put into place by our technical  
15           leader.

16  Q.     Okay.

17                         Do you know what that threshold or that  
18           statistic was?

19  A.     I believe it's one in seven trillion so when the  
20           statistics for the match are much greater than that, then  
21           we offer this particular statement.

22  Q.     Okay.

23                         And what was the actual statistics as it  
24           relates to the vaginal swab? How rare do you see that or  
25           how often would you see that profile?



1 A. I'd have to pull up my statistics report. If you'd like  
2 I can, but --

3 Q. Do you have that number?

4 A. Yes.

5 So for the major types from the vaginal  
6 swab sample sperm fraction for causation, one --

7 MR. GLENN: Objection to any type of  
8 probabilities being given here. The information she's  
9 using here is not in evidence. She's not an expert so  
10 she can't give probabilities or statistics.

11 THE COURT: Is that right, you're not an  
12 expert in statistics?

13 THE WITNESS: I'm not specifically an  
14 expert --

15 THE COURT: The objection's sustained.

16 MS. LOZEN: Okay. She's already been  
17 qualified as an analyst -- or as a --

18 THE COURT: Counsel, I sustained the  
19 objection. I expect you to go to something else.

20 MS. LOZEN: Yes, Judge.

21 BY MS. LOZEN (Continuing):

22 Q. When the statistics exceed one in seven trillion --

23 MR. GLENN: Objection.

24 MS. LOZEN: She's already testified to  
25 this --

1 THE COURT: Well, she did testify to the  
2 one in seven trillion.

3 MS. LOZEN: -- and I'm following up and  
4 I'm trying to get to another question.

5 THE COURT: Well, what's your question?  
6 Let her ask the question and then I'll see how I'll rule  
7 on this.

8 BY MS. LOZEN (Continuing):

9 Q. I want to know how many people are on planet earth?

10 A. Approximately seven billion.

11 MR. GLENN: Objection. Objection. This  
12 is outside of her expertise as a forensic DNA analyst  
13 here.

14 THE COURT: How does she know how many  
15 people are on earth?

16 MS. LOZEN: I believe it's completely  
17 within her expertise, Judge, as a forensic scientist.

18 THE COURT: I'll allow it.

19 BY MS. LOZEN (Continuing):

20 Q. How many people are on planet earth?

21 A. Approximately seven billion.

22 Q. And when we're looking at millions, billions, what comes  
23 after billions?

24 A. After billions is trillions, quadrillions,  
25 quintillions --

1 THE COURT: That's enough.

2 THE WITNESS: Lots.

3 BY MS. LOZEN (Continuing):

4 Q. So when you say this -- this profile exceeded one in  
5 seven trillion --

6 MR. GLENN: Objection, again.

7 THE COURT: I've already ruled on that,  
8 counsel --

9 MR. GLENN: And I would ask --

10 THE COURT: -- and I told you I expect you  
11 to go to something else now.

12 MR. GLENN: I would ask that it be  
13 stricken, Judge.

14 THE COURT: It will be stricken.

15 MS. LOZEN: Okay.

16 MR. GLENN: And a curative instruction.

17 THE COURT: Counsel --

18 MR. GLENN: I'm sorry.

19 THE COURT: -- no, I'm not giving a  
20 curative instruction.

21 MR. GLENN: All right.

22 BY MS. LOZEN (Continuing):

23 Q. How many times would you expect to see this profile on  
24 planet earth?

25 MR. GLENN: Objection. That calls for

1           probabilities and statistics. Again, how often would you  
2           expect to see something, that goes outside of her area of  
3           expertise.

4                       THE COURT: Overruled.

5           BY MS. LOZEN (Continuing):

6   Q.     Go ahead and answer the question.

7   A.     I would only expect to see this profile once.

8   Q.     Okay. Because it exceeds one in seven trillion?

9                       MR. GLENN: Objection. Again, she's going  
10          back to the --

11                      THE COURT: Overruled.

12                      MR. GLENN: All right.

13          BY MS. LOZEN (Continuing):

14   Q.     Okay.

15   A.     Because it exceeds the world's population --

16   Q.     Okay.

17   A.     -- by many.

18   Q.     By many?

19   A.     By quite an extent, yes.

20   Q.     Now, conclusion B, can you tell us what your conclusion B  
21          was as it relates to number three?

22   A.     Talisha Sams is excluded as the major donor to the sperm  
23          fraction of the vaginal swab sample.

24   Q.     Would you expect to see this?

25   A.     It's not unexpected, yes.

1 Q. Okay. And then what is conclusion C?

2 A. The minor donor or donors present in the sperm fraction  
3 of the vaginal swab sample are insufficient for any  
4 conclusion -- conclusive association purposes.

5 Q. Now, can you tell us what that means in laymen's terms?

6 A. Well, in this particular sample there appeared to be an  
7 additional donor that was not Miss Sams and was not Mr.  
8 Jemison. It was at a very low level so I'm not able to  
9 make any type of conclusions as to who those DNA types  
10 belong to, but again, full disclosure, they're present.

11 Q. And so if I were to give you another buccal swab from  
12 another known person could you even compare to that other  
13 sample?

14 A. Not to the minor donor. I can only make a comparison to  
15 the major donor.

16 Q. Okay.

17 And, again, was that because of it's low  
18 level? And can you tell us what low level means.

19 A. It's just a very low amount of this person's DNA present  
20 in the sample and it does not meet our established  
21 thresholds for doing any type of comparisons or  
22 statistics.

23 Q. Now, conclusion number four, what did you conclude in  
24 point number four?

25 A. The DNA profile from the epithelial fraction of the

1 genital gauze alternate light source positive stain is  
2 consistent with the victim and Mr. Jemison is excluded as  
3 a possible donor. To the DNA profile from the epithelial  
4 fraction the genital gauze alternate light source  
5 positive stain.

6 Q. Now, can you tell us about conclusion number five?

7 A. Yes, conclusion five, DNA types from the sperm fraction  
8 of the genital gauze alternative light source positive  
9 stain are consistent with the mixture of at least two  
10 individuals, including a major male contributor and  
11 alleles consistent with the victim.

12 Q. So break that down for us in laymen's terms, please?

13 A. There was DNA present in a high amount from a male. That  
14 was the major male donor in the sample. There were also  
15 minor males present that were consistent with the  
16 victim's DNA.

17 Q. And what is A, conclusion A?

18 A. Arthur Jemison matches the major donor to the sperm  
19 fraction of the genital gauze alternative light source  
20 positive stain and then I do offer a source attribution  
21 statement in the absence of identical twins or close  
22 relatives that can be concluded to a reasonable degree of  
23 scientific certainty that the DNA from the major donor to  
24 the sperm fraction of the genital gauze alternative light  
25 source positive stain and from the buccal from Arthur

1 Jemison are from the same individual.

2 Q. Is that the same -- or the same source attribution  
3 statement you gave us earlier?

4 A. Yes.

5 Q. And, again, does this profile that you found here exceed  
6 seven trillion?

7 A. Yes.

8 Q. And is that -- would you expect to see that again on  
9 planet earth?

10 MR. GLENN: Objection to the statistics.

11 We're talking about --

12 THE COURT: Overruled, counsel.

13 BY MS. LOZEN (Continuing):

14 Q. Would you expect to see that again on planet earth?

15 A. No.

16 Q. Now, when you said including two individuals -- I'm  
17 saying from point five -- including a major male  
18 contributor and alleles consistent with the victim, you  
19 were able to again compare those alleles to the victim's  
20 profile?

21 A. Correct.

22 Q. Okay.

23 Now, does MSP have a policy regarding once  
24 you test the rape kit does Michigan State Police usually  
25 test clothing?

1 A. It's possible if it's required.

2 Q. Okay.

3 Do they do it as a matter of course or is  
4 there something else that has to be done to test  
5 clothing?

6 A. Typically it needs to be specifically requested by the  
7 agency or the prosecutor.

8 MS. LOZEN: One second. I have one more  
9 question, Judge.

10 THE COURT: Then let's ask it.

11 BY MS. LOZEN (Continuing):

12 Q. Now, if there's testimony that the victim, after the  
13 sexual assault, rinsed with peroxide could that  
14 interruption or interfere with collecting DNA data off of  
15 an oral swab?

16 A. It's possible, yes.

17 Q. Okay.

18 And if a victim took a shower or a bath  
19 after a -- the sexual assault could that interfere with  
20 the rape kit process on the vaginal swab?

21 A. It could potentially, yes.

22 Q. Do you know how long a kit can be collected after a  
23 victim is assaulted?

24 A. The typical guidelines that are in place are up to about  
25 ninety-six hours. That's when there is going to be the



1 best chance of recovering some foreign material from a  
2 possible person of interest. So anything beyond that  
3 it's kind of hit or miss as to whether or not we're  
4 actually able to get any information.

5 Q. And so you're saying that taking a bath or a shower could  
6 interfere with it, but you said it's possible?

7 A. Correct.

8 THE COURT: Come on.

9 MS. LOZEN: Yes, Judge.

10 BY MS. LOZEN (Continuing):

11 Q. Did you make any other conclusions as it relates to  
12 report number three?

13 A. I did not.

14 Q. Okay.

15 MS. LOZEN: Nothing further, Judge.

16 THE COURT: All right. Let's take our  
17 morning break, okay. Please do not discuss the case in  
18 any manner. Would you please be back at twelve thirty,  
19 okay.

20 COURT OFFICER: All rise.

21 THE COURT: I know ya'll think we had that  
22 big break this morning, but we didn't get a break. You  
23 did. If you don't have anything in the jury room you can  
24 go straight through here for lunch.

25 (11:52 A.M. the jury left the courtroom

1 For lunch recess)

2 THE COURT: You can step down, Miss  
3 Maggert. You can step down. Okay. Are we ready for  
4 lunch?

5 MR. GLENN: Just one thing. Yesterday I  
6 contacted Officer Wasik, the one that took the victim's  
7 statement. He's in the witness room right now, but he  
8 was available late this morning, but he has to leave in  
9 the afternoon and I would like to bring him out so the  
10 Court can voir dire him on availability, but he's here  
11 now.

12 THE COURT: Well, it don't look like we  
13 going to finish tomorrow and we don't go Friday.

14 MR. GLENN: Could I ask --

15 THE COURT: Yeah, let's ask him.

16 (11:53 A.M. the witness was brought  
17 Into the courtroom)

18 THE COURT: Sergeant Wasik --

19 SERGEANT WASIK: Yes, sir.

20 THE COURT: -- we talking about your  
21 availability. Are you going out of town?

22 SERGEANT WASIK: Yes, sir.

23 THE COURT: How long are you going to be  
24 gone?

25 SERGEANT WASIK: I don't know. A couple

1 days or so. I could come back next week if I had to.

2 THE COURT: Monday?

3 SERGEANT WASIK: Probably.

4 THE COURT: Okay.

5 MR. GLENN: That's fine.

6 THE COURT: Okay.

7 MR. GLENN: Thank you.

8 MS. LOZEN: Judge, I --

9 THE COURT: Wait. Wait. Wait.

10 MS. LOZEN: Because I just -- I don't  
11 know, I think we may finish tomorrow. That's my only  
12 concern.

13 THE COURT: Well, how many more witnesses  
14 you got?

15 MS. LOZEN: I have the officer in charge  
16 and then Sergeant Dehem is present. He does, in fact,  
17 have the rape kit with him and then the analyst from  
18 Sorensen is on -- will be available through -- again  
19 through the telephone testimony or video testimony.

20 THE COURT: Okay.

21 MS. LOZEN: But --

22 THE COURT: Is there any way we could take  
23 his testimony at twelve thirty when we come back, out of  
24 order?

25 MS. LOZEN: If your -- I have no problem

1 with that.

2 MR. GLENN: That's fine.

3 THE COURT: Okay. We'll do it at twelve  
4 thirty. Go have lunch and come back at twelve thirty.

5 MR. GLENN: Okay. That's fine.

6 THE COURT: Okay. All right. We'll tell  
7 the jury it's out of order and everything like that.

8 MS. LOZEN: Yeah, that's fine, and  
9 Sergeant Dehem, like I said, is present with the rape  
10 kit so if defense wants to see it I would suggest you  
11 do.

12 THE COURT: Make sure you take a look at  
13 it.

14 MR. GLENN: And then it's not just the  
15 rape kit. It's the people that actually wrote --

16 THE COURT: Well, we've been over all  
17 that, counsel.

18 MR. GLENN: I understand.

19 THE COURT: Okay. All right. We stand  
20 adjourned until twelve thirty.

21 (11:55 A.M. lunch recess taken)

22 (Whereupon other cases were heard)

23 (12:47 P.M. back on record)

24 COURT OFFICER: All rise for the Jury.

25 (12:47 P.M. the jury was brought into

1 The courtroom)

2 THE COURT: Okay. Miss Lozen, do you  
3 stipulate the jury is present and in their proper seats.

4 MS. LOZEN: Yes, Judge.

5 MR. GLENN: Yes, your Honor.

6 THE COURT: All right. Ladies and  
7 gentlemen of the Jury, we are going to have to take a  
8 witness out of order, okay, because of his travel  
9 schedule so normally he would not be testifying at this  
10 time, but let that not be any effect on your decision  
11 making process, okay. All right. You may call him.

12 \* \* \*

13 O F F I C E R T E D W A S I K  
14 having been first duly sworn in and by the Court at  
15 12:48 P.M., was examined and testified upon his oath  
16 as follows:

17 THE COURT: Do you swear the testimony  
18 you're about to give before the Court shall be the truth  
19 and nothing but the truth, so help you God?

20 THE WITNESS: I do. Ted, Wasik,  
21 W-a-s-i-k.

22 COURT REPORTER: Thank you.

23 THE COURT: You or him? Okay. You want  
24 to question him? Yeah, sure.

25 MR. GLENN: Okay. I would just --

1 THE COURT: So he's being taken out of  
2 order. Normally he would appear as a defense witness,  
3 okay. All right. Go ahead.

4 DIRECT EXAMINATION

5 BY MR. GLENN:

6 Q. Good afternoon, sir.

7 A. Good afternoon.

8 Q. Can you tell us your name, please?

9 A. Ted Wasik.

10 Q. And going back to the year of 1996 were you employed?

11 A. Yes, I was.

12 Q. Where were you employed?

13 A. Detroit Police Department's Sex Crimes Unit.

14 Q. Okay.

15 I want to take you back to the date of  
16 September the 14th, 1996, of that year, were you working  
17 Sex Crimes at that time?

18 A. Yes, I was.

19 Q. Okay.

20 And did there come a point in time that  
21 you took a statement from Talisha Sims (ph)?

22 A. Yes.

23 Q. Or Sams, I'm sorry.

24 A. Sams, yes.

25 Q. All right.

1 And do you know about what time of day  
2 that was that you took the statement?

3 A. Seven P.M.

4 Q. All right.

5 And that would have been at, what, 1300  
6 Beaubien?

7 A. 1300 Beaubien, yes.

8 Q. Okay.

9 And what type of format did you use when  
10 you were taking the statement from Miss Sams?

11 A. I always use a question and answer format.

12 Q. And so a question and answer format, you ask the  
13 question, write down the question and you write down her  
14 answer?

15 A. Correct.

16 Q. Verbatim?

17 A. Verbatim.

18 Q. Okay.

19 Now, is it your policy to write down  
20 everything as best you can and not leave anything out?

21 A. That's true.

22 Q. Okay.

23 Now, did you, in fact, take a statement  
24 from Miss Sams?

25 A. Yes, I did.

1 Q. Okay.

2 And when you took the -- well, you have a  
3 document in your hand?

4 A. This is the statement I took.

5 Q. Okay.

6 MR. GLENN: Let me have it marked.

7 (Defendant Exhibit Number B, statement,  
8 Was marked for identification by the  
9 Court Reporter)

10 MS. LOZEN: Judge, I'm going to object to  
11 the admission of this statement.

12 MR. GLENN: I haven't moved for its  
13 admission yet.

14 THE COURT: Well, he hasn't moved for its  
15 admission yet.

16 BY MR. GLENN (Continuing):

17 Q. And I want to give you an opportunity to review that  
18 statement --

19 A. I already read it.

20 Q. You read it?

21 A. Yes, sir.

22 Q. Okay.

23 Now, during your questioning of Miss Sams  
24 did she give you an account of what she allegedly -- or  
25 what allegedly happened to her on the day of September



1 14th?

2 A. Yes, she did.

3 Q. Regarding a sex crime?

4 A. Yes.

5 Q. Okay.

6 And at any point in time during her  
7 statement did she tell you that she was forced to perform  
8 fellatio?

9 A. I don't recall that.

10 Q. Please look at the statement.

11 A. It doesn't say anything about oral sex.

12 Q. All right.

13 Now, at any point in time in her statement  
14 did she indicate that she had consensual sex with a  
15 person other than the perpetrator?

16 A. No.

17 Q. Okay.

18 During her statement did she indicate that  
19 she got into a fight with a co-worker?

20 A. No.

21 Q. Did she indicate that she went to a location -- after the  
22 incident did she indicate that she went to a friend's  
23 house before she went home?

24 A. No, she said she went directly home.

25 MR. GLENN: All right. Move for the

1 admission of Defense Proposed B as a prior inconsistent  
2 statement.

3 THE COURT: But he's testified to it so  
4 why do you need to admit it?

5 MR. GLENN: Well, I would go into more  
6 detail of actually what she said then.

7 THE COURT: Well, you can go into that.

8 MR. GLENN: Okay. Sure. Fine.

9 BY MR. GLENN (Continuing):

10 Q. What was the first question that you asked of Miss Sams?

11 MS. LOZEN: Well, Judge, I don't think  
12 that's what you ruled.

13 THE COURT: Well, I just ruled -- why are  
14 you asking her the first question -- is that inconsistent  
15 with her statement that she made?

16 MR. GLENN: Well, the thing is what her  
17 answer is, is going to be inconsistent with what she  
18 testified to here.

19 THE COURT: I'll allow that.

20 MR. GLENN: Thank you.

21 BY MR. GLENN (Continuing):

22 Q. All right.

23 A. The first question I have is, what happened to you.

24 Q. Okay. And what was her answer?

25 A. She stated she was with a --

1 Q. Read it the way you have it here.

2 A. Okay.

3 MS. LOZEN: Well, Judge, simply reading  
4 from the document is the problem that I'm having. If he  
5 wants to -- he's already gotten the substance of the  
6 impeachment material that he wants to get out.

7 THE COURT: Yeah.

8 MS. LOZEN: So any --

9 THE COURT: Wait. Wait. Is there a  
10 statement that's inconsistent with her testimony that  
11 you're now trying to get out? You just can't get the  
12 statement cause she said something.

13 MR. GLENN: Well, okay, yes.

14 THE COURT: Well, go ahead.

15 BY MR. GLENN (Continuing):

16 Q. All right.

17 When you asked her what happened what was  
18 her answer that is going to be inconsistent with what she  
19 testified to?

20 A. She said it was about four thirty A.M. --

21 MS. LOZEN: And again, Judge, I'm renewing  
22 my objection because, again --

23 THE COURT: Why?

24 MS. LOZEN: Because you can't just simply  
25 read the statement. It has to be inconsistent elements

1 of it which he's already gotten to, so essentially this  
2 is --

3 THE COURT: So you're saying what he's  
4 going to say now is not inconsistent?

5 MS. LOZEN: No, Judge, I'm saying he wants  
6 to simply just read the statement.

7 MR. GLENN: Well, that's --

8 MS. LOZEN: And that's the issue that I'm  
9 having. You can't just simply read the statement.

10 THE COURT: Overruled. Overruled. Go  
11 ahead.

12 BY MR. GLENN (Continuing):

13 Q. What was the answer?

14 A. She said it was around four thirty A.M. in the morning.  
15 She says, I was at --

16 THE COURT: Can't read the writing?

17 THE WITNESS: -- something, motorcycle  
18 club. My friend Delano --

19 THE COURT: Well, wait. Wait. Wait.  
20 Wait. There's nothing inconsistent about that.

21 MR. GLENN: Well, that's the first part.  
22 He's got to read on. It's not just grabbing a sentence.  
23 When you hear the whole context it will be inconsistent,  
24 Judge.

25 MS. LOZEN: And, Judge, that's the issue

1 I'm having is there are -- it's not a complete  
2 inconsistent statement.

3 THE COURT: Well, just read the part  
4 that's inconsistent then. Direct him to the part -- ask  
5 him a question about it, counsel.

6 MR. GLENN: All right.

7 BY MR. GLENN (Continuing):

8 Q. All right.

9 Now, she indicated that she was out at the  
10 out cast club around four thirty A.M., correct?

11 A. That's correct.

12 Q. And she stopped at a house on Weyher, right?

13 A. That's correct.

14 THE COURT: She's testified to that, Mr.  
15 Glenn.

16 MR. GLENN: Well, no, she testified that  
17 she had sex before she went to Weyher Street.

18 THE COURT: No, she testified that she  
19 stopped at a house and had sex with the first guy.

20 MR. GLENN: That was before she went to  
21 Weyher.

22 THE COURT: Yes.

23 MR. GLENN: She did not mention that she  
24 had consensual sex in the statement. That's the  
25 inconsistency.

1 THE COURT: Well, ask him that rather than  
2 start reading that statement.

3 MR. GLENN: Okay. All right.

4 THE COURT: Did she ever mention to you  
5 that she had consensual sex early in the night before  
6 this incident happened to her, sir?

7 THE WITNESS: No, she did not.

8 THE COURT: Okay. All right.

9 BY MR. GLENN (Continuing):

10 Q. And we already said that she didn't say that she was  
11 forced to perform fellatio, right?

12 A. She did not.

13 THE COURT: You asked him that. You asked  
14 him that.

15 MR. GLENN: All right.

16 BY MR. GLENN (Continuing):

17 Q. Now, did you ask her whether or not she was hurt during  
18 this incident?

19 A. She said he hit her in the eye.

20 Q. He had hit -- the perpetrator hit her in the eye?

21 A. With his fist, yes.

22 Q. With his first?

23 All right. And that's what caused her  
24 injury?

25 A. Yes.

1 Q. Okay.

2 And at any point in time did she mention  
3 that she got injured from someone else?

4 A. No.

5 Q. Or a fight with someone else?

6 A. No.

7 Q. Okay.

8 THE COURT: Anything further?

9 MR. GLENN: That's all I have.

10 THE COURT: Do you want to question, Miss  
11 Lozen?

12 MS. LOZEN: Briefly, Judge.

13 THE COURT: Okay.

14 CROSS EXAMINATION

15 BY MS. LOZEN:

16 Q. Good afternoon, Officer. How are you?

17 A. How you doing? Fine.

18 Q. And are you currently employed with the Detroit Police  
19 Department?

20 A. I'm retired.

21 Q. Thank you.

22 Now, this statement is in your  
23 handwriting, correct?

24 A. That's correct.

25 Q. Okay. And did Miss Sams sign that statement?

1 A. No, she did not.

2 Q. Okay.

3 Is there a reason perhaps why she would  
4 not have signed it?

5 A. I never really ask complainants to sign their statements.

6 Q. Okay.

7 Are officers trained to have their  
8 complainants sign the statements?

9 A. Not at that time. I don't know what they do now.

10 Q. Okay.

11 A. It probably would have been a good idea, though.

12 Q. Okay.

13 Now, defense counsel asked you if she  
14 mentioned anything about oral sex in that statement,  
15 correct?

16 A. That's correct.

17 Q. Would it surprise you to learn that she told the hospital  
18 staff that there was oral sex?

19 MR. GLENN: Objection.

20 THE COURT: Sustain the objection.

21 MR. GLENN: Objection.

22 THE COURT: What she told somebody else,  
23 counsel, is immaterial as to him.

24 MS. LOZEN: Well, sir --

25 THE COURT: The objection is sustained.



1 BY MS. LOZEN (Continuing):

2 Q. If you knew there was oral sex and she would have told  
3 you that, you would have included it, correct?

4 A. Yes.

5 Q. And you don't know that she told the hospital staff then  
6 later on?

7 A. I don't know what she told anybody.

8 Q. Okay.

9 And now what kind of training did you  
10 receive to take statements? Did the department give you  
11 any training in order to take the complainant's  
12 statement?

13 A. No, I've in an investigator capacity since 1984 and I  
14 learned on the job so --

15 Q. Okay. So basically on-the-job training?

16 A. Yes.

17 Q. Okay. Thank you.

18 And so did you receive training in trauma  
19 informed interviewing?

20 A. No.

21 Q. Okay.

22 And did you receive training in forensic  
23 interviewing?

24 A. No.

25 Q. Are you even familiar with these terms?

1 A. I'm familiar with 'em, yes.

2 Q. Okay.

3 Would interviewing someone with trauma  
4 informed interviewing or forensic interviewing --

5 MR. GLENN: Objection to the relevancy,  
6 Judge. This is an adult, not a kid.

7 MS. LOZEN: Judge, he's indicated he's  
8 familiar with these terms of these types of styles --

9 THE COURT: Wait. Wait. Wait. What's  
10 your objection, counsel?

11 MR. GLENN: Relevancy.

12 THE COURT: Why is this relevance,  
13 counsel?

14 MS. LOZEN: Because as an offer of proof,  
15 Judge, I would submit to you -- to the Court that you're  
16 going to get a better interview and more information if  
17 you --

18 THE COURT: Sustain the objection.

19 BY MS. LOZEN (Continuing):

20 Q. Now, Officer, as it relates to her statement defense  
21 counsel's asked you about inconsistencies, I want to ask  
22 you about a few consistencies, okay. So I want to ask  
23 you, what time of day did she -- when you asked her what  
24 happened what time of day did she say this incident  
25 started?

1 A. It started at four thirty A.M. in the morning.

2 Q. Thank you.

3 And she said she was at a motorcycle club,  
4 is that correct?

5 A. That's correct.

6 Q. Okay. And she said somebody offered her a ride?

7 A. That's correct.

8 Q. Who was this person?

9 A. Mr. Delano, a friend of hers.

10 Q. Okay.

11 And then eventually he stops at a house on  
12 Weyher Street?

13 A. That's correct.

14 Q. Okay. Now, you spelled it W-a-r-e?

15 A. That's correct.

16 Q. Okay.

17 Is there a street on the east side of  
18 Detroit called W-a-y-h-e-r?

19 A. I don't recall.

20 Q. You don't recall? Would it be possible?

21 A. I don't think so, no.

22 Q. Okay.

23 A. This Wayher Street is Ware, W-a-r-e.

24 Q. Okay.

25 And then did she tell you that he, in

1 fact, went into -- Mr. Delano went into the house and  
2 then came out?

3 A. Went into one house and came out and went two doors down,  
4 entered another house and that's when she was approached  
5 by the supposed person who accosted her.

6 Q. Okay.

7 THE COURT: Counsel, under what Rule of  
8 Evidence are you asking these questions?

9 MS. LOZEN: Judge, actually it's the same  
10 rule that defense was asking him. It's just the next  
11 section.

12 THE COURT: No, but the rule says  
13 inconsistent statements. You're allowed to impeach a  
14 witness with inconsistent statements.

15 MS. LOZEN: Yes, Judge, but then --

16 THE COURT: But you're not allowed to  
17 buttress the witness' testimony with the statement from  
18 another party.

19 MS. LOZEN: If I may.

20 THE COURT: Yes. Yes, you better.

21 MS. LOZEN: 801 (d) (1) (b).

22 THE COURT: 801 (d)?

23 MS. LOZEN: Correct.

24 THE COURT: Evidently my book is different  
25 from yours.

1 MS. LOZEN: Do you want me to read it,  
2 Judge?

3 THE COURT: Yes, please do.

4 MS. LOZEN: Okay. This is 801 (d)(1)(b),  
5 prior statement of witness consistent with the  
6 declarant's testimony and is offered to rebut an  
7 expressed or implied charge against the declarant, a  
8 recent fabrication or improper influence or motive. And  
9 so defense counsel's saying --

10 THE COURT: You can go ahead, ask the  
11 question.

12 MS. LOZEN: Thank you, Judge.

13 BY MS. LOZEN (Continuing):

14 Q. So, sir, then she told you that the car was running,  
15 correct?

16 A. Yes.

17 Q. And then she also told you that this perpetrator took out  
18 a gun?

19 A. Yes.

20 Q. And she told -- and then the perpetrator told her to take  
21 off her clothes and her jewelry?

22 MR. GLENN: Judge, I'm going to object.  
23 You can just put the whole statement in. If you're going  
24 to go line by line, word by word, nothing speaks better  
25 than the statement itself.

1 THE COURT: Well, live testimony speaks  
2 better than the statement.

3 MR. GLENN: Well --

4 THE COURT: Overruled.

5 MR. GLENN: Okay.

6 THE WITNESS: Yes.

7 BY MS. LOZEN (Continuing):

8 Q. Okay.

9 And then she did tell you -- Miss Sams did  
10 tell you that he drove the car off?

11 A. That's correct.

12 Q. And then he drove down a street, correct?

13 A. That's correct.

14 Q. Okay. What street did you have listed?

15 A. Let me see. Sylvester.

16 Q. Okay.

17 A. He went to a vacant lot on Sylvester.

18 Q. And, again, did you actually go there or did you --

19 A. No.

20 Q. -- go to that location or you just --

21 A. I may have went there. I don't remember if I did. I  
22 would not have gone there at this time, though.

23 Q. Not when you're taking her statement?

24 A. That's correct.

25 Q. Okay.

1                               And then he stopped at this vacant lot  
2                               which you told us, correct?

3   A.     That's correct.

4   Q.     And then he got on top of me and put his penis in my  
5               vagina?

6   A.     That's correct.

7   Q.     And then he ejaculated?

8   A.     That's correct.

9   Q.     And then he got off of her?

10   A.    That's correct.

11   Q.    Okay.

12                           And then he drove three blocks and told  
13                           her to get out and she did and then he drove off.

14   A.    That's the last time she saw him.

15   Q.    Okay.

16                           And then did you question her about did  
17                           she know who this person was?

18   A.    She said she didn't know him.

19   Q.    Okay. And then did you ask her whose car it was?

20   A.    Yes, she told me it was Delano's.

21   Q.    And then what was taken from her?

22   A.    Fifty-five dollars and some jewelry --

23   Q.    Was that jewelry --

24   A.    Three rings, I believe.

25   Q.    Three rings?

1 A. I believe there were three identity rings.

2 Q. And a Herringbone --

3 A. Three initials ring -- rings with initials.

4 Q. Okay. And also a Herringbone necklace?

5 A. And a Herringbone necklace, yes.

6 MS. LOZEN: And nothing further, Judge.

7 THE COURT: Okay. You may step down.

8 Thank you, very much.

9 THE WITNESS: Thank you, your Honor.

10 THE COURT: Enjoy your trip. Okay. Do  
11 you want to bring Miss Maggert back in?

12 THE WITNESS: Have a good day, your Honor.

13 THE COURT: Thank you. Same to you.

14 (1:05 P.M. witness excused)

15 \* \* \*

16 C A T H E R I N E M A G G E R T

17 having been previously duly sworn in and by the Court  
18 Clerk was examined and testified upon her oath as  
19 follows:

20 (Catherine Maggert resumed the witness  
21 Stand)

22 THE COURT: Okay. You're still under  
23 oath, Miss Maggert.

24 THE WITNESS: Yes.

25 THE COURT: Miss Lozen, you were through



1 with the direct, right?

2 MS. LOZEN: Yes, Judge.

3 THE COURT: Okay. You may cross-examine,  
4 counsel.

5 MR. GLENN: Thank you, Judge. If I could  
6 see Exhibit, what, Number Seven.

7 CROSS EXAMINATION

8 BY MR. GLENN:

9 Q. Okay, ma'am, I'm going to hand you what's been admitted  
10 as People's Seven. That's report number three?

11 A. Yes, it is.

12 Q. Okay.

13 And that's a report that you authored in  
14 this matter?

15 A. Correct.

16 Q. Okay.

17 And going down to the conclusions in this  
18 matter you gave a one to five conclusions, right?

19 A. Correct.

20 Q. Okay.

21 And I want to go down to what you gave in  
22 conclusion number three. Can you see that?

23 A. Yes.

24 Q. All right.

25 Now, going on conclusion number three you

1 had indicated this was from a sperm fraction, right?

2 A. Correct, yes.

3 Q. Now, you said there were two fractions, an epithelial --  
4 and how do you pronounce it again?

5 A. That was correct.

6 Q. Epithelial --

7 A. Epithelial, yes.

8 Q. -- epithelial fraction and the sperm fraction, right?

9 A. Correct.

10 Q. Okay.

11 And the sperm fraction has to do with  
12 males, right?

13 A. That's the goal, the separation, yes.

14 Q. All right. Sperm derived from a male, right?

15 A. Yes.

16 Q. All right.

17 Now, in the sperm fraction it's  
18 differentiated from the epithelial. You had given a  
19 conclusion that the DNA from the sperm fraction are  
20 consistent with a mixture of at least two individuals,  
21 including a major male contributor, right?

22 A. Correct.

23 Q. So when we start talking about two major male  
24 contributors -- two contributors, you're talking about  
25 two male contributors, right?

1 A. I can't say for sure whether there's two males. I just  
2 know that there's an indication of more than one person  
3 present.

4 Q. All right.

5 But this would be under the sperm  
6 fraction, right?

7 A. Correct, but it's not unlikely or uncommon, I should say,  
8 to see cells from the epithelial fraction, even victim's  
9 cells present in a sperm fraction. It's not a perfect  
10 process.

11 Q. Okay. Well, we'll get farther down on this, okay?

12 A. Okay.

13 Q. And you said that you had a known buccal swab from Mr.  
14 Arthur Jemison, right?

15 A. Correct.

16 Q. And that matched the major donor of the sperm fraction of  
17 the vaginal swabs, right?

18 A. Correct.

19 Q. And you also went down and you said that there was a swab  
20 from Miss Sams, right?

21 A. Yes.

22 Q. And that was excluded as a major donor of the sperm  
23 fraction, right?

24 A. Correct.

25 Q. So now, the victim is excluded, right?

- 1 A. As its major donor.
- 2 Q. As its major donor and you also have Mr. Jemison as a  
3 major donor, right?
- 4 A. Correct.
- 5 Q. So we have one other unidentified party, right?
- 6 A. Yes.
- 7 Q. Now, it has here, C, the minor donor, donors, to the  
8 sperm fraction of the vaginal swabs is insufficient for  
9 conclusion association purposes. Now, in your testing  
10 you're saying there's a person or an individual present  
11 you can't make identification purposes, right?
- 12 A. That's correct.
- 13 Q. Because it wasn't enough DNA present in order to make a  
14 comparison or conclusion as to who it was, right?
- 15 A. That's true.
- 16 Q. But you've identified another person who's there, right?
- 17 A. Yes.
- 18 Q. And it's not Mr. Jemison, right?
- 19 A. Correct.
- 20 Q. And it's not Miss Sams, right?
- 21 A. Correct.
- 22 Q. In conclusion number four in the epithelial fraction  
23 of -- this is the genital gauze alternative light source  
24 positive strain is consistent with the victim, right?
- 25 A. Correct.

1 Q. And also you went down to the known buccal swab of Mr.  
2 Jemison is excluded as possible donor to the DNA profile  
3 of epithelial fraction of a genital gauze alternative  
4 light source positive stain, right?

5 A. Yes.

6 Q. Okay.

7                               Going down to conclusion number five, this  
8 will be the genital gauze alternative light source  
9 positive stains are consistent with a mixture of at least  
10 two individuals, right?

11 A. Correct.

12 Q. Including a major male contributor and allies (sic) --

13 A. Alleles.

14 Q. -- alleles, okay, consistent with the victim, right?

15 A. Yes.

16 Q. And you have a known buccal swab of Mr. Jemison as being  
17 the major donor of the sperm fraction, right?

18 A. Correct.

19 Q. But there are two individuals here. You haven't made an  
20 identification of the other person, have you?

21 A. The victim is included in that additional portion, yes.

22 Q. Let me see.

23 A. Where it says, alleles consistent with the victim.

24 Q. But that's not down here under A. It says right here,  
25 the known buccal swab of Jemison matches the major donor

1 sperm. Shouldn't next to that be a B where it shows it  
2 being inconsistent with the victim?

3 A. I already stated that it was consistent with the victim  
4 in that first portion.

5 Q. Right.

6 A. So we have a major male that was matching Mr. Jemison.  
7 There's these additional minor types that are consistent  
8 with the victim.

9 Q. Okay.

10 A. So there was no further statement made.

11 Q. Okay.

12 In order to make an association of -- an  
13 association for the minor donor going back to the sperm  
14 fraction, how much sperm do you need or what are you  
15 looking for so you can make an association or comparison?

16 A. It's not a specific value as far as amount is concerned.  
17 There just needs to be enough information present at all  
18 of the areas that are tested in order for that comparison  
19 to be made that the sample has to be strong enough --  
20 strongly represented in the sample in order to make a  
21 comparison.

22 If it falls below kind of our -- we have a  
23 threshold in place at the laboratory. So it types -- DNA  
24 types, alleles, that fall below this threshold we just  
25 have to mention that they're there, but we cannot make

1 any type of comparisons to them.

2 Q. Now, earlier you were asked whether or not over time,  
3 whether or not DNA can -- I guess I wouldn't say  
4 decompose. I would say degrade?

5 A. Correct.

6 Q. Would that be the proper phrase, degrade?

7 A. Yes.

8 Q. Okay. Degrade over a certain period of time?

9 A. Yes, that's possible.

10 Q. So over twenty years would it be possible for the DNA for  
11 this minor contributor to have degraded to such a point  
12 that you cannot make any conclusions?

13 A. Sure, that's possible.

14 Q. That's possible?

15 And how about if a person were to wash  
16 themselves after an incident to wash away maybe some DNA,  
17 would that impact the DNA that would be available or  
18 sufficient to make a conclusion?

19 A. Yes, it can.

20 Q. All right.

21 Now, what about peroxide? Does peroxide  
22 have any type of destructive or damaging impact on DNA?

23 A. I would imagine that it could have some damaging effects  
24 on DNA.

25 Q. Okay.

1                   So if a person were to wash their  
2                   genitals, or any other place that DNA would be, the  
3                   peroxide could compromise that sample?

4   A.     It's possible, yes.

5                   MS. LOZEN: Well, Judge, just for the  
6                   record it's clear she rinsed her mouth out with the  
7                   peroxide.

8                   THE COURT: Yeah.

9                   MS. LOZEN: There's no testimony that --

10                  THE COURT: I'll sustain the objection.

11                  MR. GLENN: That's what she said. I'm  
12                  just saying that -- that's what she said.

13                  THE COURT: Yeah, he's not saying she did  
14                  it, counsel.

15                  MS. LOZEN: Judge, I just -- my  
16                  understanding of the question was, did she rinse her  
17                  genitals with the peroxide.

18                  THE COURT: No, he didn't ask that.

19                  MS. LOZEN: Thank you, Judge.

20                  THE COURT: He said, if a person.

21                  MR. GLENN: Thank you.

22                  BY MR. GLENN (Continuing):

23   Q.     Now, other than the three reports that were admitted here  
24                  in this case have you authored any other reports  
25                  regarding this case?



1 A. No, I have not.

2 Q. Okay.

3 Have you ordered or asked anyone to author  
4 any additional reports?

5 A. No.

6 MR. GLENN: That's all I have, your Honor.  
7 Thank you.

8 THE COURT: Any redirect?

9 MS. LOZEN: Briefly.

10 REDIRECT EXAMINATION

11 BY MS. LOZEN:

12 Q. The work that you did on this kit is -- did you follow  
13 all of the accepted guidelines that are proposed in the  
14 labs?

15 A. Yes.

16 Q. And is this common practice among the lab to do the work  
17 that you did?

18 A. Yes, it is.

19 Q. And you did it in a manner acceptable with the common  
20 practices?

21 A. Yes.

22 Q. And as it relates to the lab work does it also include  
23 other labs including the FBI?

24 A. I don't understand the question.

25 Q. Well, the common practices that you did on this work

1 here, does that also extend to the FBI and practices the  
2 FBI follows?

3 A. I don't know, you know, specifically their practice.

4 THE COURT: Counsel, on redirect you're  
5 only allowed to go into things he brought out. You're  
6 going way afar past cross.

7 MS. LOZEN: Okay.

8 THE COURT: Stay within the guidelines.

9 BY MS. LOZEN (Continuing):

10 Q. Now, you told us that when you separate the sperm  
11 fraction from the epithelial fraction it's not a perfect  
12 process. Can you elaborate on that as to why it's not a  
13 perfect process?

14 A. Yes.

15 So, we're talking about a sample that's in  
16 a small tube. You're adding chemicals in it to try to  
17 break open the cells to release the DNA and then when I  
18 do the process I'm manually taking some of that material  
19 and transferring it into another tube that becomes the  
20 epithelial fraction and what's left in the original tube  
21 is the sperm fraction.

22 If I don't completely get all of that  
23 material that should be going into the epithelial  
24 fraction and there's some that's left in that sperm  
25 fraction sample it can still be detected in the later

1 processes of the testing.

2 Likewise, if I am pulling off this liquid  
3 to put in this other tube as a epithelial fraction, if  
4 part of that sperm fraction material which is suppose to  
5 stay in the other tube ends up coming with it, you can  
6 detect that later on down the road.

7 So it's a term that's called carry over  
8 and it's a very common process and it's just because, you  
9 know, you're basing it on the skill set of the individual  
10 who's doing the actual splitting of the fractions and  
11 you're basing it on how strong of each individual person  
12 is present in that mixture, how strong that DNA is.

13 Sometimes it's impossible to avoid. So,  
14 you do your best you can. The ultimate goal is just to  
15 have a nice clean female present in the epithelial  
16 fraction and a nice clean male in sperm fraction, but  
17 unfortunately it's not a perfect process. It doesn't  
18 always work that way.

19 MS. LOZEN: Nothing further, Judge.

20 THE COURT: You may step down. Thank you,  
21 very much. Call your next witness. Thank you. You went  
22 to a good school.

23 THE WITNESS: Agreed.

24 THE COURT: I'm a Spartan, too. Long  
25 before you, though. And I couldn't get my daughter to go

1           there.

2                       THE WITNESS: Unfortunate.

3                       (1:17 P.M. witness excused)

4                       THE COURT:

5                               \*   \*   \*

6                       S E R G E A N T           D A V I D           D E H E M

7           having been previously duly sworn in and by the Court

8           Clerk was examined and testified upon his oath as

9           follows:

10                       THE COURT: Sergeant Dehem, you're still  
11           under oath, okay.

12                       THE WITNESS: I understand that, sir.

13                       THE COURT: Go ahead, Miss Lozen.

14                       MS. LOZEN: Thank you, Judge.

15                               REDIRECT EXAMINATION

16           BY MS. LOZEN:

17   Q.       Good afternoon, Sergeant. How are you?

18   A.       Good afternoon. Fine, thank you.

19   Q.       Thanks. And I see you've brought a box with you?

20   A.       Yes, I have.

21   Q.       And what do you have with you?

22   A.       An evidence collection kit.

23   Q.       Okay. And does it have a name on it?

24   A.       Yes, it does. It's Talisha Sams. I believe that's how  
25           the first name is pronounced.

1 Q. Okay. And --  
2 MS. LOZEN: May I approach, Judge?  
3 THE COURT: Sure.  
4 (People's Exhibit Number Nine was marked  
5 for identification by the Court Reporter)  
6 BY MS. LOZEN (Continuing):  
7 Q. Okay.  
8 I'm handing you what's marked as People's  
9 Proposed Exhibit Number Nine and can you tell me -- you  
10 said that it had Talisha Sams's name on it?  
11 A. Correct.  
12 Q. And is there an evidence tag number associated with it as  
13 well?  
14 A. Yes, there is.  
15 Q. And what's the evidence tag number?  
16 A. Edward 28034496 would be the full number.  
17 Q. Okay.  
18 And can you tell me does it have on  
19 here -- is there a sticker on it as well?  
20 A. Yes, there is, on the front.  
21 Q. And, again, it has the victim's name on it?  
22 A. Correct.  
23 Q. And a date of birth as well?  
24 A. Yes, it does.  
25 Q. And is this -- where did you get this from?

1 A. I retrieved it from our property room.

2 Q. Okay.

3 When you say our, do you mean the Detroit  
4 Police Department?

5 A. Yes, ma'am.

6 Q. Okay.

7 And is that the kit that you testified  
8 about yesterday as well?

9 A. Correct.

10 Q. Okay.

11 And that's the kit you indicated was  
12 picked up on the 17th of September?

13 A. Ah, if I can refresh from my notes?

14 Q. Yes, please.

15 A. Yes, that's correct.

16 Q. Okay. And who was it picked up by?

17 A. Appears it was picked up by Sergeant Flora Humphrey.

18 Q. And where was it picked up from?

19 A. Detroit Receiving Hospital.

20 Q. Okay.

21 And then from Sergeant Flora Humphrey what  
22 happened to it?

23 A. It appears she transferred it to Investigator Howard  
24 Brown to bring downstairs just to maintain the chain and  
25 custody --

1 Q. Okay.

2 A. He just brought it down.

3 Q. And when you say brought it down would it be brought down  
4 to property?

5 A. Correct. I'm sorry.

6 Q. Okay.

7 And I believe -- did you read the evidence  
8 tag for us already today?

9 THE COURT: He did.

10 THE WITNESS: I did.

11 BY MS. LOZEN (Continuing):

12 Q. Thank you. And on the kit as well as far as -- may I?

13 A. Yes.

14 Q. -- does it also say hospital on it?

15 A. It does.

16 Q. And what's the hospital?

17 A. Detroit Receiving E.R.

18 Q. And then does it state the examining physician?

19 A. It does, Doctor Kreshner and Doctor Kroan (ph).

20 Q. Okay.

21 And then there's a chain of custody box.  
22 Can you tell us what is on there?

23 A. It was sealed by a -- I'm not sure of the first initial,  
24 but the last name is Fisher, LPN.

25 Q. Okay. And who is the next name on that box?

1 A. Flora Humphrey.

2 Q. And is that the same Flora Humphrey we just spoke about a  
3 moment ago?

4 A. Yes, it should be, yes.

5 Q. Okay.

6 MS. LOZEN: And, Judge, I would move to  
7 admit this.

8 THE COURT: Do you want to cross-examine  
9 on it?

10 MR. GLENN: Yes, I would.

11 MS. LOZEN: Well, Judge, just to admit it,  
12 I have more questions.

13 MR. GLENN: Well, I would object. I heard  
14 enough. The thing is this box was sealed by a nurse.

15 THE COURT: Right.

16 MR. GLENN: Not by a doctor. Nobody's  
17 testified here at all. We have a LPN Fisher --

18 THE COURT: Yeah.

19 MR. GLENN: -- and what her role in  
20 this -- whether or not she actually took the swabs, we  
21 know that she signed the box of sealing. Now, when  
22 doctor -- when the Doctor Kreshner was on the stand he  
23 testified that he didn't know whether or not he took the  
24 swabs and he didn't know if he sealed the box and I had  
25 an objection because no one actually produced the box,



1 not only produce the box, but actually look at it and now  
2 you can see that, no, he didn't seal the box and he  
3 probably didn't take the swabs and so, no, I'm objecting  
4 to its admission here and I would object to its admission  
5 because chain and custody hasn't been established.

6 We haven't heard from the nurse, Miss  
7 Fisher. We haven't heard from Officer Humphrey and we  
8 certainly haven't heard from Officer Brown.

9 THE COURT: Response, Miss Lozen.

10 MS. LOZEN: Well, my response is I would  
11 just like to ask some more questions of Sergeant Dehem.

12 THE COURT: Okay. Go ahead.

13 BY MS. LOZEN (Continuing):

14 Q. Sergeant, to receive property at the property section  
15 does Detroit have a policy about receiving sealed  
16 property?

17 A. Yes, it does --

18 THE COURT: Well, I think your issue is at  
19 the hospital, Mrs. Lozen. How did it get from the  
20 hospital to him? Who brought it in? Who sealed it at  
21 the hospital? That's what he's objecting to. You got a  
22 gap in your testimony -- in your chain.

23 MS. LOZEN: Judge, in the case law it says  
24 there can be gaps as long as it goes to weight, not  
25 admissibility. If you want to we can further argue this.

1 I have case law on that and actually some new case that I  
2 grabbed while we were at lunch so if you want I can  
3 continue to go into this.

4 MR. GLENN: Well, I --

5 THE COURT: Go ahead.

6 MR. GLENN: Well, it deals with  
7 foundation, foundation, who took the swabs, who sealed  
8 the envelope.

9 THE COURT: I'm going to let the jury go  
10 in there. Give me your case.

11 COURT OFFICER: All rise. Leave your  
12 notebooks on your seats as well.

13 (1:25 P.M. the jury left the courtroom)

14 THE COURT: Hand it to her. Hand it to  
15 her so you don't have to crawl up here.

16 COURT OFFICER: You may be seated.

17 MS. LOZEN: Judge --

18 THE COURT: Go ahead.

19 MS. LOZEN: -- I handed you a case, People  
20 versus Berry which is a unpublished opinion, but it cites  
21 to People versus White which is the published opinion.  
22 People versus White is 208 Mich. App. 126, a 1994 case.  
23 The People versus Berry case is Docket Number 320793 and  
24 in People versus Berry the issue was relating to the  
25 buccal swab that was taken from the Defendant and I would

1 direct the Court's attention to -- it's essentially page  
2 two.

3 THE COURT: Well, that's okay because  
4 Mr. -- this case simply says that it is -- in addition,  
5 it is well that the deficiencies in the chain and custody  
6 go to the weight and not the admissibility. It's  
7 evidence of People versus White.

8 MR. GLENN: After the foundation has been  
9 established.

10 THE COURT: Your objection is overruled,  
11 counsel.

12 MS. LOZEN: And, Judge, I just would like  
13 to place on the record that in People versus Berry the  
14 facts of People versus Berry the officer in charge again  
15 took the buccal swab from the Defendant and then he put  
16 it into his drawer at work.

17 THE COURT: I saw that.

18 MS. LOZEN: Okay. And basically I think  
19 it's very controlling because again, the drawer, he could  
20 not say -- he said it was locked, but whether or not he  
21 had exclusive control of this drawer he could not testify  
22 to.

23 In addition, the box containing the  
24 Defendant's DNA sample was not taped or sealed and  
25 defense was arguing that that further discredited the

1 sample and, again, the Court of Appeals said, no, that  
2 goes to weight first, not admissibility which, again, is  
3 the issue that we have before us and I would submit that  
4 this case is controlling and that if defense is trying to  
5 argue whether or not that box was, in fact, sealed goes  
6 to weight and not admissibility just like it did in  
7 People versus Berry.

8 THE COURT: I just said that. I don't  
9 know why you went through all of that.

10 MS. LOZEN: Well, it wasn't on the record.

11 THE COURT: Bring the jury back out.

12 COURT OFFICER: All rise.

13 (1:27 P.M. the jury was brought into  
14 The courtroom)

15 COURT OFFICER: You may be seated.

16 MS. LOZEN: Judge, I would move to admit  
17 People's Exhibit Number Nine.

18 THE COURT: It's admitted.

19 BY MS. LOZEN (Continuing):

20 Q. And, Officer --

21 THE COURT: Over the defense's objection.

22 MS. LOZEN: Thank you.

23 BY MS. LOZEN (Continuing):

24 Q. -- if Detroit received a --

25 MR. GLENN: Objection to the hypothetical.

1 He can only testify to what he's actually experienced.

2 Now, the hypothetical he's not an expert in.

3 THE COURT: Overruled. Go ahead.

4 BY MS. LOZEN (Continuing):

5 Q. If Detroit received a piece of evidence that was not  
6 sealed would it be documented somewhere?

7 A. I believe so, yes.

8 THE COURT: Well, do you know or are you  
9 guessing?

10 THE WITNESS: Yes, it would be.

11 BY MS. LOZEN (Continuing):

12 Q. Okay.

13 And to your knowledge reviewing that box  
14 did the document, whether it was received in an unsealed  
15 condition?

16 A. No. None of the -- there's no notations on the box nor  
17 the chain and custody.

18 Q. Thank you.

19 And do you know if this was original tape,  
20 the white tape here and the blue tape would be from  
21 Sorenson? Does that tape --

22 MR. GLENN: Objection. That calls for  
23 speculation. He's not from Sorenson. How can he testify  
24 to where --

25 THE COURT: Sustain the objection.

1 MS. LOZEN: Judge, the tape --  
2 THE COURT: Sustain the objection,  
3 counsel.  
4 MS. LOZEN: Okay.  
5 BY MS. LOZEN (Continuing):  
6 Q. Does this tape say the word Sorenson on it?  
7 MR. GLENN: Objection.  
8 THE COURT: Sustain the objection.  
9 MS. LOZEN: It's an admitted --  
10 THE COURT: Counsel, I've ruled.  
11 MS. LOZEN: -- piece of evidence.  
12 THE COURT: I've ruled.  
13 MS. LOZEN: Okay. Judge, I just want to  
14 place my objection on the record.  
15 THE COURT: You've objected. Go ahead.  
16 MS. LOZEN: The tape says what it is.  
17 THE COURT: But that's hearsay, counsel.  
18 Somebody else put that on there. He didn't put it on  
19 there, did he?  
20 MS. LOZEN: He did not, but it's an  
21 admitted piece of evidence so it's been admitted into  
22 evidence.  
23 THE COURT: No, not what's on it, no.  
24 MS. LOZEN: Okay.  
25

1 BY MS. LOZEN (Continuing):

2 Q. As far as again, Doctor -- I'm sorry, Sergeant Dehem, you  
3 testified that the kit was checked into Detroit property  
4 on the 17th of September?

5 MR. GLENN: Objection. All he can testify  
6 to is what the records indicate.

7 THE COURT: Yeah, well, that's what she's  
8 asking.

9 MS. LOZEN: That is exactly what I'm  
10 asking him.

11 BY MS. LOZEN (Continuing):

12 Q. The records indicate, is that correct?

13 A. Correct.

14 Q. And then it was checked out when it was sent to Sorenson,  
15 correct?

16 A. Correct.

17 Q. And nothing happened to it between then?

18 A. No.

19 Q. And when it was sent -- when was it sent to Sorenson?

20 A. The 10th of December, 2013.

21 Q. And then it was received back to Detroit property when?

22 A. Correct. That would have been -- if I may refresh -- it  
23 was checked back in on the 8th of February of this year.

24 Q. 2016?

25 A. Correct.

1 MS. LOZEN: And, Judge, I have no further  
2 questions.

3 THE COURT: Mr. Glenn?

4 RECROSS EXAMINATION

5 BY MR. GLENN:

6 Q. Now, Officer, this box right now is not in an original  
7 sealed condition, is it?

8 A. I'm not sure I understand your question.

9 Q. When it's sealed from the hospital it doesn't have the  
10 blue tape or anything like that on it, right?

11 A. Correct.

12 Q. All right.

13 Now, on this tape there are a number of  
14 places where this tape has been applied, right?

15 A. Correct.

16 Q. And you have a number of dates and initials on this tape,  
17 right?

18 A. Correct.

19 Q. All right.

20 Did you apply any of these initials or  
21 dates to the tape?

22 A. No, I did not.

23 Q. Did you apply the tape anywhere?

24 A. No, I did not.

25 Q. All right.



- 1                   Now, this sticker that's right here has  
2           Detroit Police Department 14-8147-1. Where'd that number  
3           come from?
- 4   A.   That number is the barcode number that your finger's on  
5           which references the evidence tag number.
- 6   Q.   All right.
- 7   A.   We generate those.
- 8   Q.   So this is another number that's generated other than the  
9           tag number?
- 10   A.   It's just a reference number, yes.
- 11   Q.   It's another number that refers to the evidence tag  
12           number?
- 13   A.   Correct.
- 14   Q.   All right. Who put this tag on this box?
- 15   A.   Ah, that would probably be --
- 16   Q.   Do you know?
- 17   A.   I'd have to refer to my notes.
- 18   Q.   All right. Did you put the tag on?
- 19   A.   Personally, no.
- 20   Q.   Now, right here it has the initials ALS. What does that  
21           mean?
- 22   A.   I'm not sure. That was probably put on there by  
23           Sorenson.
- 24   Q.   Okay. So you didn't write that down?
- 25   A.   No.

1 Q. And it has August the 11th, '14?

2 A. It was at Sorenson at that point.

3 Q. All right.

4 So you don't -- you didn't write that  
5 down, right?

6 A. No.

7 Q. And you don't know who did, right?

8 A. No, I do not.

9 Q. And it has on here items one through five?

10 A. Correct.

11 Q. And it has August the 20th, '14, right?

12 A. Correct.

13 Q. Do you know what happened in between August the 11th and  
14 August the 20th?

15 A. No, I do not.

16 MR. GLENN: No further questions.

17 THE COURT: Anything further from you,  
18 Miss Lozen?

19 MS. LOZEN: No, Judge.

20 THE COURT: Okay. Thank you, again,  
21 Sergeant.

22 THE WITNESS: Okay. Thank you.

23 (1:32 P.M. witness excused)

24 THE COURT: Do you have any other short  
25 witnesses, Miss Lozen?

1 MS. LOZEN: Judge, I have the analyst from  
2 Sorenson who will testify to receiving the kit.

3 THE COURT: How long --

4 MS. LOZEN: And we have to take him by  
5 video.

6 THE COURT: Okay. We can do that. How  
7 long will it take?

8 MS. LOZEN: I've never had to do a video  
9 before so, Judge, I can -- I have to call them first  
10 and --

11 THE COURT: Okay. Why don't we do that.

12 MS. LOZEN: May I excuse the jury so I can  
13 have a few moments to get --

14 THE COURT: Sure. Sure.

15 COURT OFFICER: All rise.

16 THE COURT: They're getting a lot of  
17 exercise today.

18 (1:33 P.M. the jury left the courtroom)

19 THE COURT: All right. We stand adjourned  
20 until tomorrow morning at nine o'clock.

21 (Whereupon the Court officer is talking  
22 To the jury at the jury room door)

23 COURT OFFICER: All right. Jurors, you  
24 can gather your belongings and come back tomorrow at nine  
25 fifteen.

1 (Interruption)  
2 COURT OFFICER: All rise.  
3 (1:40 P.M. the jury passed from the jury  
4 Room to hallway to leave for the day)  
5 THE COURT: Okay. Anything else?  
6 MS. LOZEN: Nothing, Judge.  
7 THE COURT: Okay. All right. Ya'll have  
8 a good evening.

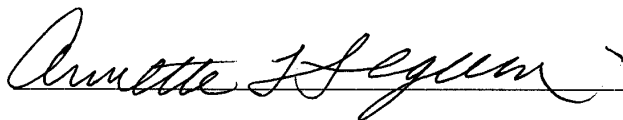
9 (1:40 P.M. proceedings concluded)

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## C E R T I F I C A T E

STATE OF MICHIGAN) SS  
COUNTY OF WAYNE )

I certify that this transcript, consisting of 152 pages, is a complete, true and correct transcript, to the best of my ability, of the proceedings and testimony taken in this case by Brion Coury, reporter of record, Official Court Reporter, CSR/CSMR/CER-0038, on May 25, 2016.



BRION COURY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribe by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

Date: November 19, 2016

Trial, 5-26-16, 697a

**Trial, 5-26-16**

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF MICHIGAN,  
vs.  
ARTHUR LAROME JEMISON,  
Defendant.

File No. 15-010216

Jury Trial

**RECEIVED**

DEC 05 2016

PROCEEDINGS TAKEN in the APPELLATE DEFENDER OFFICE  
above-entitled cause, before the HONORABLE LAWRENCE S.  
TALON, Judge of the 3rd Judicial Circuit Court, City  
of Detroit, at Frank Murphy Hall of Justice, Courtroom  
601, Detroit, Michigan, on May 26, 2016.

APPEARANCES:

LUTHER GLENN, Assistant Wayne County  
Prosecutor, appearing on behalf of the  
People.

LISA LOZEN, Attorney-at-Law, appearing  
on behalf of the Defendant.

\* \* \*

BRION CORY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribed by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

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COURT REPORTING  
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May 26, 2016

Detroit, Michigan

9:45 A.M.

\* \* \*

THE COURT: Case Number 15-010216, People of the State of Michigan versus Arthur Larome Jemison. Mr. Jemison is charged with criminal sexual conduct first degree two counts and he's here today for purposes of continuation of a jury trial. What's your pleasure, counsel?

MR. GLENN: Luther Glenn appearing on behalf of Mr. Jemison. Your Honor, today we're going to -- the Court is going to take testimony via Skype on one of the witnesses. Last Friday I put my objection on the record as to having any testimony done via video or out of court.

According to the court rules when it's at trial all parties must agree. I put my objection on Friday and Judge Viviano, over my objection, signed the order.

THE COURT: Okay.

MR. GLENN: I want to state the court rule. The court rule that I'm citing is 6.006, video and audio proceedings and it's sub C, section two, and it has

1 here, with the consent of the parties, trials, a party  
2 who does not consent to the use of two-way interacting  
3 videotape technology to take the testimony from a person  
4 at trial shall not be required to articulate any reason  
5 for not consenting. Now, I put my objection on the  
6 record on Friday.

7 THE COURT: Okay. Okay.

8 MR. GLENN: I just want to make sure  
9 that --

10 THE COURT: You told me that.

11 MS. LOZEN: And, Judge, Lisa Lozen for the  
12 People. I cited MCL six -- I'm sorry. I'll repeat that.  
13 MCL 766.11 (a) which says, a motion on either party, a  
14 magistrate shall permit the testimony of any witness  
15 except the complaining witness or an alleged eyewitness  
16 or a law enforcement officer to whom the Defendant is  
17 alleged to have made an incriminating statement to be  
18 conducted by means of telephonic, voice or video  
19 conferencing.

20 The testimony taken by video conferencing  
21 shall be admissible in any subsequent trial or hearing as  
22 otherwise permitted by law.

23 MR. GLENN: This is at trial.

24 MS. LOZEN: Judge, I did --

25 THE COURT: She just said at trial --

1 MR. GLENN: No.

2 THE COURT: -- shall be admitted at trial.

3 MR. GLENN: Well, the thing is, it can be  
4 admitted as long as the parties consent. The court rule  
5 right there specifically says --

6 THE COURT: Let me see your court rule.  
7 Let me see your bench book.

8 MS. LOZEN: Judge, I also did motion this  
9 up two weeks ago and I prepared a formal motion. I never  
10 got a response to that so this is the first time I've  
11 seen defense counsel's --

12 MR. GLENN: Well, you have to get my  
13 consent and I didn't give it.

14 MS. LOZEN: Well, the --

15 THE COURT: Did you cite this to Judge  
16 Viviano at the time that you made your motion?

17 MR. GLENN: Yes.

18 MS. LOZEN: No, Judge, that was not argued  
19 last Friday.

20 MR. GLENN: Yes, it was. I said this has  
21 to be done with the consent and I said for expert  
22 testimony I don't -- I don't do Skype for expert  
23 testimony. He said, well that's when you should normally  
24 do it cause that's when the experts are, you know, giving  
25 their summary of their report and I wanted to put on

1 my -- and he, over my objection -- and so, you know, when  
2 I'm doing this here it's pretty clear and I thought that  
3 for everything other than a trial the Court can put  
4 what's --

5 THE COURT: They refer in 766.11 (a) they  
6 refer to it as a magistrate.

7 MS. LOZEN: Judge, judges are magistrate.

8 THE COURT: I know we are, but magistrates  
9 can perform duties other than the -- the judges can do  
10 things other than what magistrates can do. I'm trying to  
11 see if it's indicating that this is something other than  
12 trial. That's what I'm concerned about.

13 MR. GLENN: Right. And the court rule I  
14 cited I believe section two, right above that deals with  
15 all other proceedings like for arraignments, for  
16 competency hearings and for other pretrial matters where  
17 it deals with whether or not you can do --

18 THE COURT: As long as the Defendant  
19 present in the courtroom has raised his right to be  
20 present upon a showing of good cause district and circuit  
21 courts may use two-way interacting video technology to  
22 take testimony from a person at another location in the  
23 following proceedings, evidentiary hearings, competency  
24 hearings, sentences, probation, revocation proceedings  
25 and proceedings to revoke his license that is not

1        entailed in the adjudication of guilt such as youthful  
2        trainee status.

3                With the consent of the party's trial, a  
4        party who does not consent to the use of a two-way  
5        interacting video technology to take testimony from a  
6        person at trial shall not be required to -- shall not be  
7        required to articulate any reason for not consenting.

8                So, Mrs. Lozen, they specifically say in  
9        the court rule in C as to what you can use this stuff for  
10       and they don't say a trial -- it can be used at a trial.

11               MS. LOZEN: Here's the issue, Judge.  
12       Judge Viviano on Friday already ruled on this and, again,  
13       my objection is that he did not cite that statute last  
14       Friday in front of Judge Viviano. Judge Viviano signed a  
15       written order that's in the court file and essentially --  
16       and I don't want to be rude, Judge, but he's forum  
17       shopping. He's trying to get you to overrule Judge  
18       Viviano and he's already ruled on this matter.

19               MR. GLENN: Well, I'm not asking the Court  
20       to overrule any -- it's clearly erroneous. I don't  
21       believe it's --

22               THE COURT: Well, hold it. Hold it. I'm  
23       not in a position to overrule him. Here's what I'm going  
24       to say for the record in case there's a conviction.

25               MR. GLENN: All right.

1 THE COURT: If I was deciding this I would  
2 not allow the testimony in, but Judge Viviano has already  
3 decided and I can't overrule him.

4 MR. GLENN: Okay. All right.

5 THE COURT: Okay. Thank you. Okay.  
6 Bring the jury out.

7 (9:50 A.M. the jury was brought into  
8 The courtroom)

9 COURT OFFICER: You may be seated.

10 THE COURT: You all stipulate the jury is  
11 present and properly seated?

12 MS. LOZEN: Yes, Judge.

13 MR. GLENN: Yes, Judge.

14 THE COURT: Okay. You may proceed,  
15 counsel.

16 MS. LOZEN: Thank you, Judge. At this  
17 time I'd like to call Mr. Derek Cutler who is available  
18 by Skype so if you'd just give me one moment. And,  
19 Judge, this camera does show the witness that we're  
20 talking to, so did you want us to stand in front of the  
21 camera or how would you --

22 THE COURT: Counsel, I don't know what you  
23 all doing.

24 MR. GLENN: Well, if it's --

25 MS. LOZEN: Hi, can you hear us?

1 THE COURT: I can see him, yes.

2 MR. GLENN: There's a courtroom set up to  
3 do Skype and it's usually not done over a computer. I  
4 believe one of the --

5 MS. LOZEN: One second, sir.

6 THE COURT: Counsel --

7 MR. GLENN: Okay. I understand, Judge. I  
8 understand.

9 THE COURT: Okay. You ready?

10 MS. LOZEN: Yes, do you want to swear the  
11 witness?

12 (Whereupon the testimony of Derek Cutler  
13 Was taken over Skype)

14 THE COURT: Raise your right hand, sir.

15 \* \* \*

16 D E R E K C U T L E R

17 having been first duly sworn in and by the Court at 9:52  
18 A.M., was examined and testified upon his oath as  
19 follows:

20 THE COURT: Do you swear the testimony  
21 you're about to give before this Court shall be the truth  
22 and nothing but the truth, so help you God?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Go ahead.

25

DIRECT EXAMINATION

BY MS. LOZEN:

Q. Good morning, Mr. Cutler. Can you hear us?

A. Yes, I can.

Q. Thank you.

I would like to ask you, would you please  
state your name.

A. Derek Cutler.

Q. I'm going to move you so the jury can see you.

THE COURT: Mr. Glenn, if you want to move  
your chair around you can, so you can see it. Even your  
client can come to the other side if he wants to.

MR. GLENN: Okay.

THE COURT: No, let him sit there. You  
sit in the witness chair so you can see.

MS. LOZEN: Okay.

BY MS. LOZEN (Continuing):

Q. Mr. Cutler, I just want to ask you a few questions.  
Please state your name for the record?

A. Derek Cutler.

Q. And how are you employed?

A. I'm employed as a forensic DNA analyst at Sorenson  
Forensics in Salt Lake City, Utah.

Q. And is that where you're presently at right now, Salt  
Lake City, Utah?



1 A. Yes.

2 Q. And how long have you been employed with Sorenson  
3 Forensics?

4 A. I've been employed by Sorenson Forensics for just over  
5 four years.

6 Q. Thank you.

7 And as a forensic scientist what is your  
8 role?

9 A. I'm a forensic DNA analyst and so when we receive  
10 evidence at our laboratory we kind of guide that group of  
11 cases through the laboratory testing process. At the end  
12 of the process there is data that we interpret. We have  
13 conclusions on that data and we issue reports.

14 Q. Thank you.

15 Can you tell us what your educational  
16 background is?

17 A. Yes. I have a Bachelor's of science from Southern  
18 Virginia University, a major in biology, minor in  
19 chemistry. I've also completed all of the course work  
20 for a Master's of science in forensic science. However,  
21 there's still a research project to do before I am able  
22 to graduate that program.

23 Q. Okay.

24 And have you -- you said you're going to  
25 conduct a research project. Have you previously

1 conducted any research projects in this area?

2 A. Yes. Before I was employed at Sorenson Forensics I  
3 worked at a research laboratory in Nebraska, University  
4 of Nebraska. We were doing like low level research,  
5 research to amplify low levels of DNA.

6 Q. And while working at Sorenson, I know you just told us  
7 you have done all your course work for your Master's, but  
8 with Sorenson do you have to do any continuing education?

9 A. Yes. We are required to have a minimum of eight hours of  
10 continuing education every year. I've recently returned  
11 from a conference a few weeks ago in continuing education  
12 and if we're not able to attend conferences we watch  
13 webinars for the latest technologies and techniques.

14 Q. Is there any kind of a certification process that you had  
15 to go through?

16 A. It's not really a certification process -- you mean to  
17 become an analyst?

18 Q. That's correct.

19 A. Yeah, there is a training process, a standardized  
20 training process at Sorenson. We have to -- there are  
21 certain books we have to read or certain papers,  
22 publications that we can read. We also have to take  
23 basically mock cases through the laboratory testing  
24 process and we are tested on the technologies, the  
25 techniques, how to interpret DNA at the end of all of the

1 training. That is a minimum of six months. There is a  
2 test that we must pass in order to be found competent in  
3 DNA testing.

4 Q. And did you pass that test?

5 A. Yes, I did.

6 Q. Thank you.

7 And have you kept up with all the  
8 requirements to stay proficient or to --

9 A. Yes, I have. So there's also every six months or two  
10 times a year we are to place in a proficiency test and so  
11 that is a test that is administered by an outside  
12 laboratory and, again, basically another mock case that  
13 is submitted. We test that case according to our  
14 standard protocols. We report out our findings of that  
15 case and then they'll let us know whether we got it right  
16 or not.

17 Q. Thank you.

18 And now the lab itself, Sorenson lab, is  
19 that accredited?

20 A. Yes, we are accredited by ASCLD lab, the American Society  
21 of Crime Laboratory Directors, laboratory accreditation  
22 board.

23 Q. And, now, have you ever testified in court before  
24 regarding the case work that you've done?

25 A. Yes, I have.

1 Q. And have you been qualified as an expert before?

2 A. Yes.

3 Q. And in what jurisdictions have you been qualified?

4 A. I'm not sure of the counties, but I can give you the  
5 states. California, Utah, Arizona, Washington State,  
6 Washington D.C. and Hawaii, and also Michigan.

7 Q. Thank you.

8 MS. LOZEN: And, Judge, at this time I'll  
9 turn the witness over to voir dire regarding his  
10 qualifications to testify as an expert in forensic  
11 biology, DNA analysis.

12 THE COURT: Okay.

13 MS. LOZEN: And even serology.

14 BY MS. LOZEN (Continuing):

15 Q. Sir, you've done serology as well, correct?

16 A. Correct.

17 Q. And you've had training on that?

18 A. Correct.

19 Q. And certifications on that?

20 A. There isn't really a certification for that, just a  
21 training process that we must show that we're capable  
22 of -- we know what's going on in the processes and a quiz  
23 or test at the end.

24 Q. Okay.

25 And have you testified about serology?

1 Have you been qualified as an expert in serology before?

2 A. Yes.

3 Q. Okay.

4 MS. LOZEN: Judge, if he wants to voir  
5 dire the witness and if he wants I can move the camera to  
6 show him.

7 THE COURT: He's over so he can see it.  
8 Go ahead.

9 MR. GLENN: Sir --

10 THE COURT: I think you have to talk loud,  
11 Mr. Glenn.

12 MR. GLENN: All right. All right. Sir,  
13 given your educational background you indicated that  
14 there's no certification in the field of DNA, is that  
15 correct?

16 THE WITNESS: There is a certification.  
17 It's just not required to be a DNA analyst.

18 MR. GLENN: Okay. Now, what is the  
19 certification of process that's, according to you, not  
20 required to be an analyst. What is the certification  
21 process?

22 THE WITNESS: There's a certain  
23 organization -- certain organizations offer, not  
24 certification. It's just through that organization. For  
25 example, the American -- ABC American -- I can't remember

1        what the -- the term was. It's just a certain  
2        organization will offer training in that, but that  
3        training usually involves more than just DNA.

4                MR. GLENN: And it's your testimony that  
5        Sorenson does not require you to be certified with this  
6        outside organization, is that correct?

7                THE WITNESS: Yes, Sorenson does not  
8        require as well as the FBI requirements.

9                MR. GLENN: All right. What about the  
10       state of Utah?

11               THE WITNESS: The state of Utah does not  
12       require it.

13               MR. GLENN: All right. Now, working with  
14       Sorenson you're not an employee for the state of  
15       Michigan, are you?

16               THE WITNESS: That's correct.

17               MR. GLENN: All right. So Sorenson is not  
18       a governmental agency, is it? It's a private  
19       organization?

20               THE WITNESS: Yes, sir.

21               MR. GLENN: It's a private organization?

22               THE WITNESS: Yes, it is.

23               MR. GLENN: Okay. All right. And as far  
24       as my understanding is, you have a Bachelor of science  
25       and biology in chemistry, right?

1 THE WITNESS: Yes, major in biology, minor  
2 in chemistry.

3 MR. GLENN: All right. Okay. And the  
4 certification process that you're talking about you were  
5 indicating that you have to have a continuing education I  
6 believe it was eight hours a year, right?

7 THE WITNESS: Not really for the  
8 certification process. It's just a requirement of the  
9 FBI to have continuing education every year.

10 MR. GLENN: Okay. But not Sorenson?

11 THE WITNESS: Also Sorenson to comply with  
12 the requirements --

13 MR. GLENN: All right.

14 THE WITNESS: -- with the FBI.

15 MR. GLENN: All right. Now, how many  
16 times have you been asked to testify in Michigan?

17 THE WITNESS: One other time in Michigan.

18 MR. GLENN: One other time? When was  
19 that?

20 THE WITNESS: It was -- I'm not sure of  
21 the exact date, but last year.

22 MR. GLENN: Okay. And what was the nature  
23 of your testimony?

24 THE WITNESS: It was almost exactly --

25 MS. LOZEN: Judge --

1 THE WITNESS: -- the same scenario as  
2 this.

3 THE COURT: Hold on. Hold on. Hold on.

4 MS. LOZEN: One second, sir. I'm going to  
5 object. How does this go to the qualifications --

6 THE COURT: Sustain the objection.

7 MS. LOZEN: -- of the expert?

8 THE COURT: It doesn't go to his  
9 qualifications, Mr. Glenn.

10 MR. GLENN: Okay. That's all I have,  
11 Judge. Thank you.

12 THE COURT: All right. Okay.

13 MR. GLENN: I object to him being  
14 considered an expert in forensic --

15 THE COURT: Okay. Over the defense's  
16 objection I'll allow him to testify as an expert as to  
17 DNA and serology. Go ahead.

18 MS. LOZEN: Thank you, Judge.

19 BY MS. LOZEN (Continuing):

20 Q. Okay.

21 Mr. Cutler, I just have a few questions  
22 for you. So you indicated you work for Sorenson  
23 Forensics, correct?

24 A. Correct.

25 Q. And in Sorenson Forensics did they contract with the



1 Michigan State Police to test rape kits?

2 A. Yes.

3 Q. Okay.

4 And are you familiar with -- and just for  
5 the record this has been previously admitted as People's  
6 Exhibit Number One -- a Sorenson case report or Sorenson  
7 Case Number SF-013199?

8 A. Yes.

9 Q. Okay.

10 And does that say -- does it also read  
11 client Case Number 96-2005?

12 A. Yes.

13 Q. Okay.

14 And is this case report, is it regarding  
15 one of the pieces of evidence that was submitted pursuant  
16 to this contract with the Michigan State Police to test  
17 rape kits?

18 A. Yes, it is.

19 Q. Now, this rape kit that came in, did you document in your  
20 notes anywhere if it was received in a sealed or damaged  
21 condition?

22 A. Yes, that is documented.

23 Q. And what did you document?

24 A. It is documented on your chain and custody when we  
25 receive the evidence that it was received with a proper

1 seal and undamaged.

2 MR. GLENN: Objection if he's not  
3 testifying to what he observed. He said, we. He's not  
4 talking about what he did.

5 THE COURT: Can you be specific as to what  
6 he saw, counsel.

7 BY MS. LOZEN (Continuing):

8 Q. Sir, is it within the normal scientific community to have  
9 multiple people do work on these kits?

10 MR. GLENN: Objection to relevance.

11 THE WITNESS: Yes. It's a common  
12 practice.

13 MR. GLENN: Objection.

14 THE COURT: Why don't you stay with what  
15 he did, counsel.

16 BY MS. LOZEN (Continuing):

17 Q. Sir, you reviewed the documents regarding this case,  
18 correct?

19 A. Correct.

20 Q. And within the documents this information is contained  
21 within these documents?

22 A. Yes, it is.

23 Q. And the documents document whether --

24 MR. GLENN: Objection, that's hearsay.

25 THE COURT: Sustained.

1 BY MS. LOZEN (Continuing):

2 Q. Mr. Cutler, did you actually see the rape kit or did you  
3 do the work behind it? Like, for example, did you  
4 actually see the rape kit?

5 A. I did not actually see the rape kit. I go off of the  
6 notes that are done by other serologists or technicians  
7 who are competent in their testing.

8 MR. GLENN: And I would object to anything  
9 else he's got to say. 703 requires that information to  
10 be in evidence first, whatever he sees. What someone  
11 else told him is hearsay.

12 MS. LOZEN: Judge, the rape kit is already  
13 in evidence.

14 THE COURT: Yes, but now it's coming out  
15 that he never saw the rape kit.

16 MS. LOZEN: Well then, Judge, one moment.

17 BY MS. LOZEN (Continuing):

18 Q. You did -- Mr. Cutler, did you provide that case file  
19 that has all your notes in it to the Michigan State  
20 Police?

21 A. Yes, we did.

22 Q. And that was then sent to the Michigan State Police and  
23 then you don't know what they did with it afterward,  
24 correct?

25 A. Correct.

1 Q. Now, I have the rape kit with us right now and if you can  
2 see it in the camera?

3 MR. GLENN: Objection. He said he didn't  
4 see the rape kit.

5 THE COURT: Well, let her ask the  
6 question, counsel.

7 MR. GLENN: Sure. Okay. All right.

8 BY MS. LOZEN (Continuing):

9 Q. And there's some blue tape on here. Are you familiar  
10 with this blue tape?

11 A. Yes.

12 Q. And I'm moving the box around. There's blue tape on  
13 here. Can you see what the wording on the blue tape  
14 says?

15 A. I cannot.

16 Q. Can you see it now?

17 A. Yes. It's Sorenson Forensics or Renon Forensics.

18 Q. Okay.

19 And it's just cut off at that point, but  
20 is this tape -- are you familiar with this tape?

21 A. Yes, I am.

22 Q. And how is this tape used?

23 MR. GLENN: Objection to relevance.

24 THE WITNESS: This tape is used --

25 THE COURT: Wait. Wait. Wait. What is

1 the basis of this testimony, counsel?

2 MS. LOZEN: Judge, that he received the  
3 kit and then it was --

4 THE COURT: Well, he said he didn't  
5 receive the kit. He said he didn't receive it.

6 MS. LOZEN: Well, Judge, it was received  
7 and then this tape was then put onto the kit to then seal  
8 it back up.

9 THE COURT: By who?

10 MS. LOZEN: The kit is, in fact --

11 THE COURT: By who, counsel?

12 MS. LOZEN: People in his unit or his --

13 THE COURT: You don't know who sealed it,  
14 do you? Or do you know who sealed it? Ask him.

15 BY MS. LOZEN (Continuing):

16 Q. Mr. Cutler, are you familiar with who sealed this kit?

17 A. Yes.

18 Q. And who is that person?

19 A. That will be --

20 MR. GLENN: I would object.

21 THE WITNESS: It has multiple initials on  
22 that.

23 MR. GLENN: Objection.

24 THE COURT: So he didn't see who sealed  
25 it. He don't know who sealed it, counsel.

1 MS. LOZEN: Judge, one second. He said  
2 there were multiple people with the initials.

3 THE COURT: Yeah, but that doesn't mean  
4 that he saw them seal it. He just sees the initials on  
5 it. You got a problem.

6 MS. LOZEN: Judge, at this point the rape  
7 kit's already been in evidence. The jury can view it so  
8 at this point I just will move on and I'll ask Mr. Cutler  
9 about his report that's already been admitted into  
10 evidence.

11 THE COURT: Okay.

12 BY MS. LOZEN (Continuing):

13 Q. So this case report SF-013199, did you do an inventory of  
14 the evidence that was tested?

15 A. Yes. When I have a case that I'm to interpret and offer  
16 conclusions on I must review all previous work done and  
17 make sure that it was done according to our standard  
18 protocols and everything is complete according to our  
19 contract requirements.

20 MR. GLENN: And I object. He's just  
21 reviewing documents --

22 THE COURT: Overruled.

23 MR. GLENN: Well -- all right.

24 BY MS. LOZEN (Continuing):

25 Q. Okay.

1                   Mr. Cutler, and what was the evidence that  
2                   you inventoried or you put on your document, your report?

3   A.    The items received that were within the sexual assault  
4           kit were vaginal swabs, genital gauze, oral swabs and two  
5           different forms of a reference.

6   Q.    And who are they a reference to?

7   A.    A reference to Talisha Sams.

8   Q.    And then you offered, as it relates to the vaginal swabs,  
9           can you tell us what the difference between a sperm  
10          fraction and epithelial fraction are?

11   A.    Yes, this item went through what is called a differential  
12          extraction and so it's an extraction that is designed to  
13          separate epithelial cells or skin cells from sperm cells.  
14          The makeup of the cell is different so that they are able  
15          to be separated and so in that testing the epithelial  
16          fraction will have a greater number of skin cells  
17          creating the DNA profile that results and the sperm  
18          fraction is designed to have a greater number of sperm  
19          cells that create the profile that results.

20   Q.    And, Mr. Cutler, can you tell us, did you make  
21          conclusions after doing a DNA analysis on the vaginal  
22          swab?

23   A.    Yes, I did.

24   Q.    What were your conclusions regarding the vaginal swabs?

25   A.    For the epithelial fraction there was a mixture of DNA

1 profiles from a minimum of two contributors obtained.  
2 There was a major profile identified and that major  
3 profile matched the profile that we obtained from the  
4 reference of Talisha Sams and then the minor portion of  
5 this mixture was inconclusive, meaning that it was at  
6 such a low level that no conclusion or no comparisons can  
7 be made to it.

8 Q. So if I were to give you a reference sample can you  
9 compare it to this minor portion?

10 A. No, I could not.

11 Q. And then as it relates to the sperm fraction what were  
12 your conclusions?

13 A. And for the sperm fraction also a mixture of DNA profiles  
14 from at least two contributors was obtained. At least  
15 one of those contributors as a male. There was a major  
16 DNA profile identified within this mixture that can be  
17 attributable to unknown male number one, which is what we  
18 give the first unknown male profile that we obtain in a  
19 case and so that major profile was found to be suitable  
20 for comparison and the minor portion of this mixture was  
21 also at such a low level that it was inconclusive and no  
22 comparisons could be made to it.

23 Q. Is that the same situation you previously stated about  
24 the other minor profile?

25 A. Yes.



1 Q. That it was low level and you could not make comparisons?

2 A. Correct.

3 Q. Okay. And then you also told us about genital gauze?

4 A. Yes.

5 Q. What were your conclusions regarding genital gauze?

6 A. That the sample also went through the differential  
7 extractions separated into epithelial and sperm fraction  
8 where the epithelial fraction is just a single profile  
9 obtained that genetically was tagged as female and this  
10 profile matched the profile obtained from the reference  
11 of Talisha Sams.

12 Q. Okay.

13 And then the sperm fraction, what was your  
14 conclusion?

15 A. The sperm fraction was a mixture of DNA profiles from a  
16 minimum of two contributors, but at least one of those  
17 contributors genetically typing as a male was obtained.  
18 A major profile was identified within this mixture and  
19 that was suitable for comparison. That profile matched  
20 the profile of the unknown male from the vaginal swabs  
21 and then the minor portion is inconclusive also due to a  
22 level.

23 Q. You said low level?

24 A. Correct.

25 Q. Okay.

1                                   And then were the oral swabs tested? What  
2                                   happened with the oral swabs?

3   A.    Yes, the oral swabs only went through a serological test  
4           that we call wide screening and so it is a small sample  
5           that's taken from the oral swabs. There's an extraction  
6           and then what we call quantification. So this  
7           quantification will give us an estimate of total DNA as  
8           well as total male DNA and so the result of that  
9           extraction said that there was no male DNA present in the  
10          oral swabs.

11   Q.    Okay.

12                               And then did you test the reference sample  
13                               for Miss Talisha Sams?

14   A.    Yes, we did test one of the -- there were two reference  
15           samples submitted and we did test one of them and a  
16           complete DNA profile that genetically of female was  
17           obtained.

18   Q.    Okay.

19                               And now I would like to ask you if there  
20                               was testimony that one male --

21                               MR. GLENN: Objection to what someone  
22                               else's testimony was.

23                               MS. LOZEN: Judge, he's an expert. He can  
24                               give his expert opinion about a scenario if I were to  
25                               pose a scenario to him.

1 MR. GLENN: She can pose it as a  
2 hypothetical, but not as a --

3 THE COURT: You can pose it as a  
4 hypothetical, yes.

5 MS. LOZEN: Thank you, Judge.

6 BY MS. LOZEN (Continuing):

7 Q. Mr. Cutler --

8 THE COURT: You can't tell him what  
9 somebody else testified to.

10 BY MS. LOZEN (Continuing):

11 Q. -- for a hypothetical situation if one male had sex with  
12 a female and he used a condom and then another male had  
13 sex with a female and did not use a condom would you  
14 expect to see these type of results or what type of  
15 results would you expect to see?

16 A. Usually if a condom is not used there would be sperm  
17 cells present and typically when a condom is used if  
18 there are sperm cells present there would be a low  
19 amount.

20 Q. Say that again.

21 A. If usually between the two if a condom is used there  
22 would be a lower level or lower amount of male DNA or  
23 sperm cells found.

24 Q. Okay.

25 And did you make any other conclusions as

1 it relates to this work here that was done?

2 A. That was all the conclusion of the items that were  
3 tested.

4 Q. Okay.

5 MS. LOZEN: One second, Judge. Okay,  
6 Judge, I have nothing further for this witness.

7 THE COURT: Mr. Glenn.

8 MR. GLENN: Just to follow up.

9 CROSS EXAMINATION

10 BY MR. GLENN:

11 Q. If a condom is used during sex how would you expect to  
12 see any -- or find any sperm cells?

13 A. I'm not sure how every scenario would go. Sometimes a  
14 condom would break or sometimes we do find sperm cells  
15 even if a condom is used.

16 Q. All right. Now --

17 A. Just from the experience of thousands of kits that I have  
18 analyzed and made conclusions of, of the scenarios of  
19 medical reports there are times when sperm cells are  
20 found even if a condom is used, but in general when a  
21 condom is used a much lower amount of DNA is found than  
22 if a condom is not used.

23 Q. Okay.

24 Well, when you're talking about DNA we're  
25 talking about sperm cell DNA, not epithelial. That's

1           what I'm talking about, sperm cell DNA.

2   A.     Yes.

3   Q.     Now, can you rule out unprotected sex from someone who  
4           didn't have a condom on in addition to the person who  
5           used the condom?

6   A.     Yeah, I'm not able to say how DNA got in a certain --  
7           onto a certain swab. I can just report the results of  
8           the testing that we performed on that swab.

9   Q.     Right.

10                       So the only thing you can do is report the  
11           presence of the DNA that's present? You're not giving  
12           any conclusions as to how it got there, correct?

13   A.     Correct.

14   Q.     Now, going back to your analysis of the DNA that you  
15           analyzed here, you said that there was -- there were two  
16           fractions, epithelial and the sperm. Did you conduct  
17           those separations yourself?

18   A.     I did not. They were done by a competent DNA specialist.

19   Q.     Okay.

20                       My question was a yes or no, sir. Did you  
21           do it, yes or no?

22   A.     No, I did not.

23   Q.     Who did it?

24   A.     May I refer to my notes --

25   Q.     No, no --

1 A. -- for a specific name?

2 Q. Okay. Please.

3 A. The extraction of the vaginal swabs and the genital gauze  
4 was performed by Derek Kettle.

5 Q. All right. Is that a person that works at Sorenson?

6 A. It is a person that worked at Sorenson at the time of  
7 this testing, but has since moved onto other employment.

8 Q. All right.

9 So you're looking at someone else's notes,  
10 is that correct?

11 A. At the time that this was written he was an employee of  
12 Sorenson.

13 Q. My question was, sir, you're looking at someone else's  
14 notes, is that correct?

15 A. Correct.

16 Q. All right.

17 Anyone else do any work on this rape kit  
18 analysis in regards to the epithelial and the sperm  
19 division that you're aware of?

20 A. Meaning the extraction or --

21 Q. Yes.

22 A. -- or the entire process?

23 Q. No, the fraction?

24 A. For the extraction, Derek Kettle performed the extraction  
25 of those samples.

1 Q. All right. And no one else?

2 A. Of those samples, correct. Of the extraction.

3 MR. GLENN: All right. That's all I have,  
4 your Honor. Thank you.

5 THE COURT: All right.

6 MS. LOZEN: One follow-up question.

7 THE COURT: Go ahead.

8 REDIRECT EXAMINATION

9 BY MS. LOZEN:

10 Q. Mr. Cutler, the work that Derek Kettle performed, is it  
11 accepted within the scientific community for labs to work  
12 that way?

13 MR. GLENN: Objection.

14 THE COURT: Overruled.

15 BY MS. LOZEN (Continuing):

16 Q. Go ahead.

17 Is the lab process that your lab followed,  
18 Sorenson followed to test this kit, is that accepted  
19 within the community of scientific laboratories?

20 A. Yes, it is.

21 Q. Okay.

22 MS. LOZEN: Nothing further, Judge.

23 THE COURT: Okay. All right.

24 MS. LOZEN: Thank you, Mr. Cutler.

25 THE WITNESS: You're welcome.

1 (10:20 A.M. witness excused)  
2 THE COURT: All right. Call your next  
3 witness.  
4 MS. LOZEN: Judge, the People call Officer  
5 Mike Sabo.  
6 THE COURT: Step up to be sworn.  
7 \* \* \*  
8 D E T E C T I V E M I K E S A B O  
9 having been first duly sworn in and by the Court at 10:20  
10 A.M., was examined and testified upon his oath as  
11 follows:  
12 THE COURT: Do you swear the testimony  
13 you're about to give before this Court shall be the truth  
14 and nothing but the truth, so help you God?  
15 DETECTIVE SABO: I do.  
16 THE COURT: Have a seat and speak into the  
17 microphone.  
18 MS. LOZEN: May I, Judge?  
19 THE COURT: Please do.  
20 MS. LOZEN: Thank you.  
21 DIRECT EXAMINATION  
22 BY MS. LOZEN:  
23 Q. Good morning, sir. Would you state your name for the  
24 record.  
25 A. Yes, it's Mike Sabo.



1 Q. And how are you employed?

2 A. I am a detective with the Wayne County Sheriffs  
3 Department.

4 Q. And before you were a detective with the Wayne County  
5 Sheriff's Department where did you work?

6 A. I worked for the city of Dearborn for twenty-five years.

7 Q. What did you do with the city of Dearborn?

8 A. I was a patrol officer for twelve of those years and in  
9 the investigation for my final thirteen years.

10 Q. So you worked at the police department?

11 A. Yes.

12 Q. Thank you.

13 And how long have you worked for the Wayne  
14 County Sheriffs Department?

15 A. Since September of 2015.

16 Q. And where are you presently assigned?

17 A. I work for the Wayne County Sexual Assault Kit Task  
18 Force. It's a unit that was formed to address the issue  
19 of the untested rape kits in the city of Detroit.

20 Q. Can you tell us generally about the rape kit project?

21 A. In 2009 there were several thousand -- over eleven  
22 thousand --

23 MR. GLENN: Objection.

24 THE COURT: Yeah, why are we going into  
25 that, counsel? We don't need to get into this. The

1 objection is sustained. Get to the issue.

2 BY MS. LOZEN (Continuing):

3 Q. Was this case one of the kits found in the rape kits,  
4 abandoned rape kits?

5 A. Yes, it was.

6 Q. And so now did you receive information or a report about  
7 DNA evidence that was found in this rape kit?

8 A. Yes, in September of 2015, the end of September I was  
9 assigned a case that involved a victim named Talisha Sams  
10 in which there was DNA evidence of.

11 Q. DNA evidence, was this found in her kit?

12 A. Yes.

13 Q. And when you were assigned to this case or this  
14 investigation what did you do?

15 A. When you're assigned a case in this unit you review the  
16 case file. I first went to obtain the original case file  
17 from 1996 which I was able to obtain. Once I receive the  
18 file I review the file and I proceed with an  
19 investigation regarding the victim involved, the  
20 witnesses. I attempt to notify, contact the people  
21 involved in the case and basically start the case again.

22 Q. Okay.

23 Now, you said you were able to review the  
24 original Detroit police file from 1996?

25 A. Yes.

1 Q. And were there documents contained in that file?

2 A. Yes.

3 Q. And can you tell us this lab report that was also  
4 produced, did this lab report relating to Miss Sams rape  
5 kit indicate a suspect's name?

6 A. Yes, it did. His name is Arthur Jemison.

7 Q. Okay.

8 Now, can you tell me you said earlier you  
9 attempted to locate people involved in this case. Were  
10 these people whose names were included in the original  
11 file?

12 A. Yes, they were. They were the victim who made the report  
13 as well as whatever witnesses were provided within the  
14 report I did locate and speak to them.

15 Q. So did you make effort to find the victim, Miss Sams?

16 A. Yes, I did. I was able to locate her and speak to her.

17 Q. Okay.

18 And when you located and spoke to her is  
19 there a protocol or policy that is set up when first  
20 notifying the victims about their rape kit being tested?

21 A. Yes --

22 MR. GLENN: Objection to the relevancy of  
23 any of this.

24 THE COURT: I'll overrule you on that one.  
25 Let her continue.

1 DETECTIVE SABO: Our policy or protocol  
2 that we have in place in this unit is to locate the  
3 victim involved in the assault, identify her as the  
4 correct person. Because of the age of some of these  
5 cases you have to make sure that they are the person who,  
6 in fact, reported this, in this case twenty years ago.

7 Once that person is notified and contacted  
8 I explained to 'em who I am, what's going on with their  
9 case and we request -- I request that we meet at another  
10 location for a more formal interview. So the first step  
11 is the notification process and the second step is a  
12 formal interview.

13 BY MS. LOZEN (Continuing):

14 Q. And why is this done?

15 A. In the interview process, the second step, we want to  
16 bring the victim to a location where she'll feel safe at,  
17 where she's comfortable in and it's the information --  
18 through information and training we learn that this other  
19 location where we bring the victim we're able to solicit  
20 more information.

21 THE COURT: Hold it. Hold it. We got to  
22 get a note from over here. Go ahead, Mrs. Lozen.

23 BY MS. LOZEN (Continuing):

24 Q. So, Detective, in your experience as a police officer  
25 have you dealt with victims of sexual assault before?

1 A. I have, yes.

2 Q. And is being the victim of a sexual assault a traumatic  
3 experience for these victims that you've seen?

4 A. Yes, it is.

5 Q. Okay.

6 And so something from 1996 bringing back  
7 up in 2015, 2016 would it perhaps potentially bring this  
8 trauma back to them?

9 A. Yes, when we try to reduce the amount of time the victim  
10 has to tell the stories about what happened to her, so  
11 this second follow-up interview is with the victim's  
12 advocate, a member of the Prosecutor's Office, and myself  
13 and we go over the events. We don't want the victim to  
14 continue to retell the same stories. We try to reduce  
15 the amount of times that she tells her story.

16 Q. And was that, in fact, done here in this case?

17 A. Yes.

18 Q. So did you, in fact, meet with Talisha Sams?

19 A. Yes, on October the 9th I did meet with Talisha Sams at  
20 her residence, explained to her who I was. She was --  
21 appeared to me to be happy that someone was looking into  
22 her case from 1996. She told me she did remember it very  
23 well.

24 We continued to have a brief conversation  
25 because I didn't want to get into the facts of the case

1           until we met at another location, but I could tell that  
2           she was very anxious to talk about her story. She wanted  
3           to talk about it and at that time I did tell her there  
4           was DNA discovered in her rape kit from 1996 and in order  
5           to eliminate any possible consensual partner or to  
6           determine if she knew who the assailant was I did show  
7           her a photo line-up at that time.

8   Q.    Okay.

9   A.    And she did not identify anybody.

10   Q.   That photo line-up, showing you what's been marked as  
11        People's Exhibit Number Three, are you familiar with  
12        this?

13   A.   Yes, that's the line-up I showed her with the date of  
14        10-9-15. Identification made, it's marked, no. I put  
15        the mark on it. Total selected, NA, not applicable. I  
16        put the initials on it.

17   Q.   Now, your review of the original Detroit police file, in  
18        the original file was a suspect ever named?

19   A.   No, a suspect was never named.

20   Q.   Okay.

21                           And so then you said in an effort to make  
22        sure that there was not a consensual partner did you, in  
23        fact, show Miss Sams a picture of the person whose DNA  
24        was in her kit?

25   A.   I did. I did show her a picture of Arthur Jemison after

1 I showed her the photo line-up and her response was -- I  
2 asked if she knew who this individual was and her  
3 response was, oh, yeah, that's Artie.

4 Q. Okay.

5 I want to hand you what's been marked as  
6 People's Exhibit Number Four. Can you tell me who is  
7 that?

8 A. This is -- that is the photo I showed Miss Sams.

9 Q. Now, that page looks like it's only part of a page. Can  
10 you tell us why there's only part of a page here?

11 A. This is a copy of an actual photo. So only the photo was  
12 copied. It was a larger document.

13 Q. Okay.

14 And so you indicated when you showed her  
15 this photo of Arthur Jemison you said her response was,  
16 that's Artie?

17 A. Yes, she appeared to know Artie. I asked, is there a  
18 reason why you didn't identify him in the initial photo  
19 line-up that I showed her and her response was she didn't  
20 think it could be him because she knew him, and I asked  
21 how she knew him, and she informed me that she met him  
22 around the year 2000 and when this occurred in 1996 she  
23 did not know him.

24 So it was shortly after that I requested  
25 to meet with her at a different location, like I

1 mentioned, to have other people there where we could have  
2 a more formal interview.

3 Q. Now, the individual that you were investigating you  
4 identified as Mr. Arthur Jemison, do you see Mr. Jemison  
5 in court today?

6 A. Yes, he's sitting next to defense counsel in the black  
7 shirt.

8 MS. LOZEN: And, Judge, for the record the  
9 witness identified the Defendant.

10 THE COURT: So reflect.

11 BY MS. LOZEN (Continuing):

12 Q. Now, this interview, where did the second interview occur  
13 at?

14 A. It occurred at a place called the Wayne County SAFE which  
15 SAFE is an acronym for sexual assault forensic examiner  
16 and it's on Second Avenue, in the city of Detroit. It's  
17 a place where victims of assault often meet to speak to  
18 advocates or officers and discuss their case.

19 Q. And when you met with Miss Sams to do this interview was  
20 the victim advocate actually present?

21 A. Yes.

22 Q. Okay. And was a prosecutor present?

23 A. Yes.

24 Q. Was I the prosecutor that was present for that interview?

25 A. Yes, you were.



1 Q. And during this interview can you say what her demeanor  
2 was during this interview?

3 A. She started out calm. As the interview progressed  
4 towards the details of the incident she became very  
5 emotional and obviously had a difficult time discussing  
6 what occurred.

7 Q. Thank you.

8 Can you tell us during the interview do  
9 you have Miss Sams sign a medical release authorization?

10 A. I do. The purpose of that is for me to obtain or attempt  
11 to obtain any medical records from the hospital that she  
12 was taken to after the assault to get a complete medical  
13 record as to what happened.

14 Located within the file that I had from  
15 1996 only contained a couple pages of medical records.  
16 Typically there are more medical records involved, but I  
17 seen in this time that I've been in this unit that these  
18 older cases oftentimes the entire medical file is not in  
19 there. So I did have her sign a release and I did go to  
20 Detroit Receiving Hospital to try and attempt to locate  
21 the full file.

22 Q. And did you need that release for HIPAA privacy?

23 A. Yes, there are laws that require the person whose records  
24 are being requested to sign a form.

25 Q. And did Miss Sams actually sign the form?

1 A. Yes, she did.

2 Q. And then did you take it to Detroit Receiving Hospital?

3 A. I did.

4 Q. And what happened when you got to Detroit Receiving  
5 Hospital?

6 A. I went to the records division. On the form is the name  
7 of the victim, the date of treatment, the request that  
8 I'm making and I requested if they had -- I asked if they  
9 had this record available. I was told those records are  
10 no longer available. Their policy at Detroit Receiving  
11 is typically after ten years those records are taken out  
12 of the system. So there were no additional records at  
13 Detroit Receiving Hospital.

14 Q. So you said that's a policy of Detroit Receiving  
15 Hospital?

16 A. Yes, that's what I was told by personnel at the hospital.

17 Q. Okay.

18 I'm showing you what's been marked as  
19 People's Exhibit Number One. Are you familiar with  
20 those?

21 A. Yes, these are the records that were located in the file  
22 from 1996 --

23 Q. Okay.

24 A. -- from Detroit Receiving Hospital.

25 Q. And you indicated you reviewed other police files as well

1 relating to old rape kits?

2 A. Yes.

3 Q. And was it normal or abnormal to have two pages?

4 A. In the older cases it's not uncommon so I was not  
5 surprised to only see a couple documents in this file  
6 cause these older cases sometimes don't have all the  
7 documents from the original incident.

8 Q. Now, as it relates to Miss Sams did she indicate who the  
9 first person she told about the assault was?

10 A. Yes, she did.

11 Q. And who was this person that she told?

12 A. After the assault she left the vehicle. She started  
13 walking and went to a friend of hers name Ebony.

14 Q. Okay.

15 And did you make efforts to locate someone  
16 by the name of Ebony?

17 A. Yeah, the information I had on Ebony was a Ebony Jones.  
18 I had no additional information as far as a birth date  
19 and, again, this is going back twenty years. I did make  
20 efforts in law enforcement databases to locate an Ebony  
21 Jones and there were multiple Ebony Jones that I found,  
22 but not knowing whether this was an alias or actual  
23 person I was unable to actually find the correct Ebony  
24 Jones. I just did not have enough information.

25 Q. And then Miss Sams, did she then -- Miss Sams'

1 grandmother, did you have a name for Miss Sams's  
2 grandmother?  
3 A. Yes, her name was June Sams.  
4 Q. And where is miss June Sams at now?  
5 A. It's my understanding she's deceased.  
6 Q. And then Lashawn Cooper, who is Lashawn Cooper?  
7 A. Lashawn is Talisha's sister and she was another person  
8 who was notified the night of the -- or morning of the  
9 assault and I did make efforts to locate her and I did  
10 locate her and I did talk to her.  
11 Q. Okay. Now, what about Andrea Sams?  
12 A. Andrea Sams is Talisha's sister as well. I did make  
13 efforts to locate her which I did locate her and I did  
14 speak to her as well.  
15 Q. Is Andrea Sams her younger sister?  
16 A. Yes, she is.  
17 Q. And Lashawn Cooper is Miss Sams older sister?  
18 A. Correct.  
19 Q. Now, did you conduct an investigation into Arthur  
20 Jemison?  
21 A. I did. I determined after collecting the information  
22 from the file and interviewing witnesses I did.  
23 Q. Okay.  
24 And were you able to use any databases to  
25 see where Mr. Jemison was at in 1996?

1 A. I did.

2 MR. GLENN: That calls for hearsay, Judge.

3 THE COURT: Unless he knows where he was  
4 how can he testify to where he was?

5 MS. LOZEN: Because there are records that  
6 he reviewed.

7 THE COURT: You got to get -- where are  
8 the records?

9 MS. LOZEN: I can ask the witness which  
10 records did he review.

11 THE COURT: Yes.

12 DETECTIVE SABO: I did review records.  
13 There were court records that showed where he was living  
14 in 1996 that I was able to locate.

15 BY MS. LOZEN (Continuing):

16 Q. Okay. And where was he living at in 1996?

17 MR. GLENN: Objection. That still calls  
18 for hearsay, Judge.

19 THE COURT: What is your answer to that,  
20 counsel, and why is that relevant to where he was living?

21 MS. LOZEN: Where he was at in relation to  
22 the assault.

23 THE COURT: No record will show where he  
24 was at in relation to the assault, would they?

25 MS. LOZEN: The witness indicated that he

1 reviewed court records.

2 THE COURT: The objection is sustained,  
3 counsel.

4 MR. GLENN: Thank you, Judge.

5 BY MS. LOZEN (Continuing):

6 Q. Were there any records that you were able to locate  
7 regarding an individual by the name of Delano?

8 A. Yes, contained within the police file was information on  
9 Delano. I was able to learn by reviewing the file that  
10 Delano was identified as Andre White and he would go by  
11 Delano as an alias.

12 Q. And where is Andre White at now?

13 A. Andre White is deceased and the record that I reviewed  
14 showed that he died in November of 1996.

15 Q. Were you able to look into this 1988 Monte Carlo that  
16 Miss Sams described?

17 A. I did attempt to. The case being twenty years old, the  
18 Secretary of State does not keep records for more than  
19 three years of an unregistered vehicle so attempts were  
20 made to see if any vehicles were registered to an Andre  
21 White at this time, but due to the age of the case and  
22 the Secretary of State's expunging these records after a  
23 certain amount of time I was unable to locate an actual  
24 vehicle.

25 Q. Now, as it relates to interviewing victims of trauma is

1           there an interview procedure or policy called trauma  
2           informed interviewing?

3   A.     Yes, there is.

4   Q.     And are you -- have you participated in training  
5           regarding trauma informed interviewing?

6   A.     I have, yes.

7   Q.     And you indicated you started in Dearborn and you worked  
8           for Dearborn for twenty-five years?

9   A.     Correct.

10   Q.    Was trauma informed interviewing available when you  
11          started your career?

12   A.    No, it wasn't. It's still a fairly new concept and it's  
13          still getting into law enforcement agencies even today so  
14          it was not even something we discussed when I started my  
15          career.

16   Q.    Okay. And what is trauma informed interviewing?

17   A.    Trauma informed interviewing is a new way to interview  
18          any victim of a trauma, whether it's an officer involved  
19          shooting which I personally handled on multiple occasions  
20          or the victim of a sexual assault people process --

21                   MR. GLENN: Objection to the relevance of  
22                   any of this, Judge.

23                   THE COURT: Why is this relevant, counsel?

24                   MS. LOZEN: Because the next question I  
25                   would eventually have is, is Miss Sams Dowe, the way she

1 reacted within -- if it was appropriate to interview Miss  
2 Sams Dowe using this trauma informed interviewing.

3 THE COURT: Go ahead.

4 DETECTIVE SABO: Victims of trauma process  
5 the trauma differently. It's very typical for a victim  
6 of a traumatic incident not to put it in chronological  
7 order or to block out certain events of the trauma or to  
8 not remember certain events of the trauma immediately  
9 after the incident.

10 Sometimes it would take, according to the  
11 training I received, forty-eight to seventy-two hours  
12 to fully process what occurred. So it's more common to  
13 see --

14 MR. GLENN: Objection. Objection. This  
15 is all speculation and conjecture. How is it --

16 THE COURT: Yeah, counsel, we don't have  
17 anything to show this. I'm going to sustain the  
18 objection. You're going far afield now.

19 MS. LOZEN: Judge, the issue is defense  
20 counsel called in Investigator Ted Wasik who testified he  
21 did not have this training.

22 THE COURT: Counsel, I ruled on the issue  
23 and I expect for you to continue with something else,  
24 please.

25 MS. LOZEN: Thank you, Judge.



1 BY MS. LOZEN (Continuing):

2 Q. Now, Mr. -- I'm sorry, Detective Sabo, when you  
3 interviewed Miss Sams at the Wayne County SAFE you  
4 described did you, in fact, use this trauma informed  
5 interviewing style?

6 A. I did.

7 Q. Okay.

8 And then have you found that this  
9 techniques helped you get more information from the  
10 victim?

11 A. Yes, it does.

12 Q. And regarding this trauma, the way that Miss Sams reacted  
13 when she was giving -- when she was being interviewed by  
14 you --

15 MR. GLENN: Objection.

16 THE COURT: Sustain the objection.

17 MS. LOZEN: I'll just -- can I rephrase  
18 the question, Judge?

19 THE COURT: Do whatever you think you can  
20 do.

21 BY MS. LOZEN (Continuing):

22 Q. Was her reaction within the range of reactions that  
23 you've seen victims of trauma --

24 THE COURT: I'll allow that.

25 DETECTIVE SABO: Yes, it was. Victims --

1       there's no standard reactions for victims of trauma.  
2       They're very diverse. Some are very calm. Some are very  
3       emotional so there's a wide range of emotions that  
4       occurred. She hit those reactions from a trauma victim.

5       BY MS. LOZEN (Continuing):

6       Q.     So you would expect to see her reactions?

7                       MR. GLENN: Objection. He just said --

8                       THE COURT: He just said there's a wide of  
9       'em so you don't know what to expect, counsel.

10                      MS. LOZEN: Thank you, Judge.

11                      THE COURT: The objection's sustained.

12       BY MS. LOZEN (Continuing):

13       Q.     Did there come a time in the Michigan State Police  
14       reports do they request a buccal swab from -- or a known  
15       sample from the suspect that they've identified?

16       A.     Yes, it's their policy to get a comparison buccal swab  
17       sample which I did do.

18       Q.     And to do that do you prepare a search warrant?

19       A.     I do.

20       Q.     And did you do that in this case?

21       A.     Yes, I did.

22       Q.     And then did there come a time where you took a buccal  
23       swab from Mr. Jemison?

24       A.     Yes.

25       Q.     And then what did you do with the swab?

1 A. The swab is taken to the Detroit property section, signed  
2 in, given a tag number and subsequently taken to the  
3 Michigan State Police Crime Lab in Northville.

4 Q. And did you do that in this case?

5 A. I did.

6 Q. So you dropped it off at the Northville lab?

7 A. Yes, I did.

8 MS. LOZEN: Nothing further at this time,  
9 Judge.

10 THE COURT: Mr. Glenn, would you have any  
11 questions?

12 MR. GLENN: Sure. Just a couple.

13 CROSS EXAMINATION

14 BY MR. GLENN:

15 Q. Going back to the investigation you had to the 1988 Monte  
16 Carlo, now, you indicated the Secretary of State expunges  
17 the records for unregistered automobiles after three  
18 years?

19 A. That's my understanding. That's correct, sir.

20 Q. Now, what about reports of stolen automobiles, did your  
21 investigation go back to September 14th, 1996 to see if  
22 there was a report of a 1988 Monte Carlo reported stolen?

23 A. I did. I did check with the Detroit Police Department  
24 and I was unable to locate any stolen vehicle.

25 Q. Okay.

1                               So there was no report of a stolen Monte  
2                               Carlo?

3   A.   Not that I found, sir, no.

4   Q.   Now, you had indicated that you attempted to locate Ebony  
5           Jones and you were unsuccessful, correct?

6   A.   That's correct.

7   Q.   Did you ask Miss Sams if she knew where miss Jones was?

8   A.   I did.

9   Q.   And when did you ask her that?

10   A.   That was during the SAFE interview.

11   Q.   Okay.

12                           And did she give you a location where she  
13                           could be found?

14   A.   No, she didn't.

15   Q.   All right.

16                           What about at the Outcast Motorcycle Club,  
17                           did you go there?

18   A.   No, I didn't. That was twenty years earlier.

19   Q.   Okay.

20                           But you didn't go to the Outcast  
21                           Motorcycle Club to see if they know where she was or who  
22                           she was or anything like that?

23   A.   After twenty years --

24                           THE COURT: Just answer the question.

25                           DETECTIVE SABO: No, I did not.

1 MR. GLENN: That's all I have, your Honor.

2 Thank you.

3 THE COURT: Anything further, Mrs. Lozen?

4 MS. LOZEN: No, Judge.

5 THE COURT: You may step down.

6 (10:46 A.M. witness excused)

7 THE COURT: Call your next witness.

8 MS. LOZEN: Judge, the People have no  
9 further witnesses and at this time the People would rest.

10 THE COURT: Mr. Glenn.

11 MR. GLENN: May I consult with my client,  
12 Judge?

13 THE COURT: Okay. Ladies and gentlemen of  
14 the Jury, I'm going to ask you to go into the jury room  
15 and we'll take our fifteen minute break, okay.

16 COURT OFFICER: All rise.

17 (10:46 A.M. the jury left the courtroom)

18 COURT OFFICER: You may be seated.

19 THE COURT: Okay. Miss Lozen and Mr.  
20 Glenn, I received a note from one of the jurors, did  
21 anyone locate or interview Delano? You answered that  
22 question for him cause you said you did.

23 MS. LOZEN: Correct.

24 THE COURT: Okay. So I just wanted you  
25 all to know that.

1 MR. GLENN: Okay.  
2 THE COURT: Counsel.  
3 MR. GLENN: Can I just have a --  
4 THE COURT: Yeah. Okay. We'll take our  
5 break.  
6 (10:47 A.M. off record)  
7 (10:55 A.M. back on record)  
8 THE COURT: This is the People of the  
9 State of Michigan versus Mr. Arthur Larome Jemison. What  
10 is your decision, counsel?  
11 MR. GLENN: Luther Glenn for Mr. Jemison.  
12 We're going to rest, your Honor.  
13 THE COURT: All right. Okay. Let's go  
14 over the jury instructions before we do the closing  
15 arguments, okay.  
16 MS. LOZEN: Yes, Judge. Do you want to  
17 place the voir dire on the record about the defense not  
18 testifying?  
19 THE COURT: Yeah, I'll do that. I'll do  
20 that. Mr. Jemison, will you stand up, please. What is  
21 your full name, sir.  
22 DEFENDANT JEMISON: Arthur Larome Jemison.  
23 THE COURT: Mr. Jemison, your attorney has  
24 indicated to me that you do not want to take the stand  
25 and testify on your own behalf. Is that true?

1 DEFENDANT JEMISON: Yes, sir.

2 THE COURT: Mr. Jemison, do you understand  
3 that you have a constitutional right to take the stand in  
4 your own behalf and testify? Now, even though I expect  
5 you to counsel and advise with your attorney as to  
6 whether or not you take the stand and testify the  
7 ultimate decision as to whether you testify has to be  
8 yours. Do you understand that?

9 DEFENDANT JEMISON: Yes, sir.

10 THE COURT: Is that your desire?

11 DEFENDANT JEMISON: Yes, sir.

12 THE COURT: Okay. I'll accept your waiver  
13 of your right to testify as knowingly and intelligently  
14 made.

15 MS. LOZEN: Thank you, Judge.

16 THE COURT: All right. Okay. Let's go to  
17 the jury instructions. The first one I have is three  
18 point one, which is members of the jury, the evidence and  
19 arguments in this case are finished.

20 MS. LOZEN: That's fine.

21 MR. GLENN: Yes.

22 THE COURT: Okay. And I will put it in  
23 any order that you all want me to put it in. Three point  
24 two is a person accused of a crime is presumed to be  
25 innocent.

1 MS. LOZEN: That's fine.

2 MR. GLENN: Yes.

3 THE COURT: Okay. I got some dupes in  
4 here. Facts can be proved by direct evidence from a  
5 witness or an exhibit.

6 MS. LOZEN: That's fine.

7 MR. GLENN: Correct.

8 THE COURT: If you want to change it, you  
9 know, after we go through it -- the Defendant may be  
10 proved by what he said, what he did, how he did it or by  
11 any other facts and circumstances in evidence.

12 MR. GLENN: Okay.

13 THE COURT: Okay.

14 MS. LOZEN: Okay.

15 THE COURT: As I said before, it is your  
16 job to decide what the facts of this case are. You must  
17 decide which witnesses you believe and how important  
18 their testimony -- and the rest of that stuff.

19 MS. LOZEN: That's fine.

20 THE COURT: I'm just reading the top of  
21 it.

22 MR. GLENN: Yes, sir. Okay.

23 THE COURT: Okay. Mr. Glenn gave me one  
24 of impeachment by prior inconsistent testimony. There's  
25 been some evidence that a witness -- and I assume you're



1 talking about Talisha Sams Dowe?

2 MR. GLENN: Correct.

3 THE COURT: -- the Defendant has made an  
4 earlier statement that does not agree with her testimony  
5 during the trial.

6 MS. LOZEN: Judge, that's fine. I'll  
7 leave it to your discretion.

8 THE COURT: Okay. Identification. One of  
9 the issues in this case is identification of the  
10 Defendant as the person who committed the crime.

11 MR. GLENN: Right.

12 MS. LOZEN: Is that a standard  
13 instruction, Judge?

14 THE COURT: Yes, it's criminal jury  
15 instructions seven point eight.

16 MS. LOZEN: Is it seven point eight? As  
17 long as it's a standard instruction.

18 THE COURT: It's a standard instruction.

19 MS. LOZEN: Then but are you doing it in  
20 the threes or are you going to do it with the sevens?

21 THE COURT: This is a seven.

22 MS. LOZEN: Then I would ask that it go  
23 with the -- I think it's better to do them in order.

24 THE COURT: What do you mean in order?

25 MS. LOZEN: Well, right now you're in

1 the --

2 THE COURT: Well, see, a lot of this I  
3 pulled from other jury instructions. See, I don't have a  
4 jury instruction manual.

5 MS. LOZEN: Okay. Then may I see the red  
6 book, Judge?

7 THE COURT: Sure. And here's the jury  
8 instructions.

9 MS. LOZEN: Yeah, this is fine, Judge.

10 THE COURT: Okay. Weighing conflicting  
11 evidence, number of witnesses.

12 MS. LOZEN: Yeah, I believe --

13 THE COURT: You should decide this case  
14 based on -- you should not decide this case based on  
15 which side presented more witnesses.

16 MS. LOZEN: Yeah, that's standard, Judge.

17 MR. GLENN: Yeah.

18 THE COURT: Time and place. The  
19 prosecutor must prove beyond a reasonable doubt that the  
20 crime occurred within Wayne County. However, she is  
21 not -- however, time, however, is not an element of the  
22 crime of criminal sexual conduct.

23 MS. LOZEN: Yes, Judge.

24 THE COURT: The Defendant -- these are  
25 yours. The Defendant is charged with two counts. That

1 is with the crime of criminal sexual conduct in the first  
2 degree and criminal sexual conduct in the first degree.  
3 These are separate crimes and the prosecutor is charging  
4 that the Defendant committed both of them. You must  
5 consider each of the crimes in light of all of the  
6 evidence in the case.

7 MS. LOZEN: Yes, Judge.

8 THE COURT: You may find the Defendant  
9 guilty of all or any one of these crimes or not guilty of  
10 any of 'em.

11 MS. LOZEN: That's fine.

12 THE COURT: Okay. Expert testimony.  
13 You've heard testimony from Doctor Mark Kerschner who has  
14 given you his opinion as an expert in the field of  
15 emergency medicine. That's the standard instruction.

16 MS. LOZEN: That's the standard and there  
17 should be one for Catherine Maggert.

18 THE COURT: You saw this, right?

19 MR. GLENN: Yes.

20 MS. LOZEN: As well as Derek Cutler.

21 THE COURT: Yeah. Okay. These are the  
22 charges -- this is the reason that she gave when we  
23 started out which I will read to the jury. Victim does  
24 not need to resist.

25 MR. GLENN: That's right.

1 THE COURT: Okay. And then we get into  
2 the -- well, let me make sure.

3 MS. LOZEN: Well, Judge, there should be  
4 testimony of victim need not be corroborated which is  
5 twenty point --

6 THE COURT: I think it's in here.

7 MS. LOZEN: -- twenty-five.

8 THE COURT: I think it's in here. I'm  
9 still going through 'em. Oh, criminal sexual conduct,  
10 one wrongful act, multiple aggravating circumstances.

11 MR. GLENN: Right.

12 MS. LOZEN: Yes, Judge.

13 THE COURT: Okay.

14 MS. LOZEN: I just want to make sure you  
15 have twenty point twenty-five and twenty point twenty-six  
16 and then twenty point thirty A.

17 THE COURT: It's not looking good, Miss  
18 Lozen.

19 MS. LOZEN: I have copies.

20 THE COURT: Wait. Wait. Twenty point  
21 what?

22 MS. LOZEN: Twenty point twenty-five,  
23 twenty point twenty-six --

24 THE COURT: No, I don't have them. But  
25 you know, we -- oh, you got 'em? Good.

1 MS. LOZEN: Yeah.  
2 THE COURT: Bring 'em up.  
3 MS. LOZEN: I believe you --  
4 MR. GLENN: I'll just give you all of it.  
5 THE COURT: Okay. I thought I had that.  
6 I got the victim did not -- I got the other two in here.  
7 I got the victim did not need to resist.  
8 MR. GLENN: Right.  
9 THE COURT: But -- no, I didn't have  
10 testimony of victim need not be corroborated, but I got  
11 these two.  
12 MS. LOZEN: Okay.  
13 THE COURT: Okay. Leave 'em here just in  
14 case.  
15 MS. LOZEN: Yeah.  
16 THE COURT: Okay. These say, do you want  
17 to communicate -- do you want to look at any of this?  
18 MS. LOZEN: That's all standard, Judge.  
19 MR. GLENN: Right.  
20 THE COURT: Now, do you want me to mention  
21 that he does not have to take the stand?  
22 MR. GLENN: Oh, absolutely, yes.  
23 THE COURT: Okay. I got it in here.  
24 That's why I'm asking.  
25 MR. GLENN: Yes.

1 THE COURT: Okay. Then the rest of 'em is  
2 when they go to the jury room --

3 MS. LOZEN: Judge, but I did, also, I  
4 believe, provide a verdict form this morning.

5 THE COURT: I got the verdict form. I got  
6 the verdict form, but I had the victim's testimony need  
7 not be corroborated. Okay. When you go to the jury room  
8 if you want to communicate. Penalty is not something you  
9 should consider.

10 MS. LOZEN: Yes, Judge.

11 MR. GLENN: Right.

12 THE COURT: If you want to look at any of  
13 the evidence. Witnesses who are police officers. Okay.  
14 And a possible verdict form. Did you see a copy of it?

15 MR. GLENN: Just --

16 THE COURT: Let me read it to you.

17 MR. GLENN: All right.

18 THE COURT: It's Count I, criminal sexual  
19 conduct in the first degree, penis to genital opening,  
20 not guilty, guilty of criminal sexual conduct in the  
21 first degree. Count II, criminal sexual conduct in the  
22 first degree, fellatio, not guilty, guilty of criminal  
23 sexual conduct in the first degree.

24 She starts off by saying, possible  
25 verdicts. You may only return one verdict on each count.

1 Mark only one box for each count.

2 MR. GLENN: Okay.

3 THE COURT: Is that it? Anything else  
4 that I missed or didn't?

5 MS. LOZEN: No, Judge, I do believe that's  
6 it.

7 MR. GLENN: No, Judge.

8 THE COURT: Okay. When we bring them back  
9 out, do you want to do anything before you start argument  
10 cause when you finish your arguments I'm going right into  
11 instructing the jury.

12 MS. LOZEN: Judge, the only thing I have  
13 is a small power point that I have on here so I'll just  
14 need a moment to turn the TV on when the jury comes out.

15 THE COURT: Okay. All right. Okay. Are  
16 we ready?

17 MR. GLENN: Yes.

18 THE COURT: Okay. Miss Lozen, have you  
19 got your machine in the ready?

20 MS. LOZEN: Yes.

21 THE COURT: Okay. Bring 'em out.

22 COURT OFFICER: All rise for the Jury.

23 (11:10 A.M. the jury was brought into  
24 The courtroom)

25 COURT OFFICER: You may be seated.

1 THE COURT: Okay. Ladies and gentlemen of  
2 the Jury, you've heard all of the testimony you will hear  
3 in the case -- oh, Mr. Glenn, you didn't rest in front of  
4 the jury.

5 MR. GLENN: Your Honor, defense is not  
6 going to call any witnesses. The defense rests.

7 THE COURT: Okay. All right. Ladies and  
8 gentlemen of the Jury, you've heard all of the testimony  
9 you're going to hear in this case. You're now going to  
10 hear what we call closing arguments and the prosecuting  
11 attorney, Mrs. Lozen, has an opportunity to speak to you  
12 twice.

13 The reason for that is cause she has the  
14 burden of proof. The Defendant does not have to prove  
15 his innocence. Miss Lozen has to convince you beyond a  
16 reasonable doubt as to each and every element and,  
17 therefore, she gets to speak to you by the opening and  
18 closing arguments and then she gets an opportunity to  
19 rebut whatever Mr. Glenn says, okay.

20 All right. Sit back and listen. Thank  
21 you. You may start when you're ready, Mrs. Lozen.

22 MS. LOZEN: Thank you, Judge. First I  
23 want to thank you for your time and attention. My  
24 closings are my opportunity to give me a chance to talk  
25 about the facts as I remember them but, again, you should



1 go by what you remember. So if I'm saying something  
2 different go with what you remember and, likewise, I'm  
3 also going to comment on the law and so, again, if I say  
4 something differently than what the Judge says, because  
5 the law comes from the Judge, go with the law that the  
6 Judge gives you.

7 So first off this case is the People  
8 versus Arthur Jemison and he -- the Judge is going to  
9 give you a law that says, to prove this charge it is not  
10 necessary that there be any evidence other than the  
11 testimony of the victim if this testimony proves guilt  
12 beyond a reasonable doubt and he is charged with criminal  
13 sexual conduct in the first degree, penis to genital  
14 opening, and criminal sexual conduct in the first degree  
15 which is fellatio which is entry into the victim's mouth  
16 by the Defendant's penis.

17 So there's two counts that you're going to  
18 decide today and I want to break down for you the  
19 elements of the offenses and they're essentially the same  
20 elements. There's just two different penetrations and so  
21 with the first element it involves the sexual act that  
22 involved entry into Miss Dowe's genital opening or her  
23 mouth in Count II by the Defendant's penis and then any  
24 entry, no matter how slight, is enough. It does not  
25 matter whether the sexual act was completed or whether

1 semen was ejaculated.

2 Now, we know that there was penetration  
3 into the genital opening because the Defendant's semen is  
4 on her vaginal swabs. Again, Miss Sams testified that  
5 when she was at the -- she did go to the hospital and  
6 then you heard from the doctor who testified that he did,  
7 in fact, do a genital examination and that he did, in  
8 fact, collect the swabs and he said that they were put  
9 into the rape kit and it's customary for these rape kits  
10 to be sealed and then it was sent -- or given to the  
11 Detroit police.

12 Sergeant Dehem did testify for you that  
13 per the business records that he has of the Detroit  
14 police evidence section that the kit was delivered to  
15 property a few days later after the assault. I believe  
16 it stayed at the hospital for three days and then it went  
17 to Receiving -- Detroit Receiving -- I'm sorry, Detroit  
18 police, the evidence section, and it stayed there until  
19 it was sent out to Sorenson and at this point, again,  
20 this is regarding the genital opening or her mouth, the  
21 genital opening, again, we have his semen on her vaginal  
22 swabs.

23 As relates to the mouth of the victim she  
24 testified that she rinsed with peroxide after the assault  
25 and this was given to her by her grandmother and the

1 analyst, Catherine Maggert, did testify that it would be  
2 possible that peroxide would break down DNA and I submit  
3 to you, ladies and gentlemen, that any kind of cleaning  
4 like that would, in fact, break down the DNA so you would  
5 not expect to see something or collect something off of  
6 an oral swab.

7 Now, the Doctor Kerschner did tell us in  
8 Exhibit Number One that there was a sexual assault form  
9 that they did, in fact, fill out and on the sexual  
10 assault form they did, in fact, check both oral and  
11 vaginal penetration.

12 So when Miss Sams Dowe got to the hospital  
13 she told the hospital and they did, in fact, do oral and  
14 vaginal penetration and that's why they collect oral  
15 swabs. If they -- and Doctor Kerschner testified that if  
16 a victim did not report oral penetration they wouldn't  
17 look at her mouth.

18 There would be no reason to look at her  
19 mouth if she did not report oral penetration. And so  
20 this is the first element of both counts and the next  
21 element is -- there's two different theories that you can  
22 go after and the two different theories are that the  
23 alleged sexual acts occurred under circumstances that  
24 involved kidnapping or that the Defendant was armed at  
25 the time with a weapon or any object fashioned in a

1 manner to lead Talisha Sams Dowe to reasonably believe  
2 that it was a weapon and, again, in this instance there  
3 are two different theories and when you're deliberating  
4 you don't have to be unanimous in which theory you  
5 choose.

6 So if six of you want to pick theory one  
7 and six of you want to pick theory two, that's  
8 permissible as long as you believe that either one of  
9 these theories happened beyond a reasonable doubt.

10 The Judge will give you instructions on  
11 that so that will be covered by the Judge and, again,  
12 that's just because the first element -- there's two  
13 elements and the first element was the penetration  
14 element. The second element is that it involved -- that  
15 it occurred during the act of kidnapping or with a  
16 weapon.

17 Now, as relates to kidnapping, these are  
18 the elements of kidnapping and I would submit to you,  
19 ladies and gentlemen, that the first element of  
20 kidnapping is that Arthur Jemison forcibly confined or  
21 imprisoned Talisha Sams Dowe against her will and, again,  
22 the first element Miss Sams did testify that she was in  
23 this car and that the Defendant drove off with this car  
24 and she was in it and she could not get out.

25 Again, he had a gun on her and that was

1 the reason why she could not get out of this car and then  
2 the next element is that Arthur Jemison did not have  
3 legal authority to confine Talisha Sams Dowe.

4 She testified for you that she did not  
5 want to be in this car with him, that he did not have  
6 permission to get in this car, that she did not want him  
7 to drive away with this car. She did not want to be in  
8 this car with him.

9 Now, the next element is -- and, again,  
10 what to consider when you're considering these elements  
11 is when he forcibly confined or imprisoned Talisha Sams  
12 Dowe for the purposes of kidnapping was how far was she  
13 moved and, again, she was moved to another street which  
14 was another -- the way she testified, the way she  
15 described the second street, was that there were no other  
16 people on the street.

17 There was no other cars around. There  
18 were no other pedestrians walking on the street. In  
19 fact, he pulled into a vacant lot and then did the  
20 movement add any greater danger or threat to her other  
21 than the crime of criminal sexual contact or conduct and,  
22 again, I would submit to you that moving her to a place  
23 of greater danger, when he moved her from the first  
24 street on Weyher to the second street, I believe it was  
25 Belvidere, that moving her to that second street she was

1 not able to receive assistance from anybody who was on  
2 that first street.

3 Again, she knew that Delano would  
4 eventually come out of that house and that as what had  
5 just happened a few moments before when she was a few  
6 streets down -- I'm sorry, a few houses down, and when he  
7 moved her he moved her to a place of greater danger. He  
8 moved her essentially for his convenience.

9 He moved her so that he could assault her,  
10 he could rob her and, again, this is easier for him to do  
11 it when they were on another street and she had to have  
12 been moved for the purpose of kidnapping and this  
13 movement must have been independent of any other crime.

14 So, again, kidnapping, to rape -- to rob  
15 and rape -- to rape and rob her, it was easier to do it  
16 at another location. He could have stayed on the first  
17 street. He simply could have stayed on Weyher Street and  
18 conducted the crime right there. The movement is what  
19 causes the kidnapping and moving her to this new location  
20 is essentially the thrust of my argument as to why this  
21 has all been satisfied.

22 So while he's confining Talisha Sams Dowe  
23 Arthur Jemison forcibly moved or caused Felicia Sams Dowe  
24 to be moved for the purposes of kidnapping which is what  
25 that first slide was demonstrating for you.

1                   This place was a place of greater danger  
2                   and this was a place where he could secretly rape her.  
3                   Again, he did it in a place where, again, no one was out  
4                   there to help her and then the next element is that  
5                   Arthur Jemison intended to kidnap Talisha Sams Dowe.

6                   We can show his intentions by his actions  
7                   and his actions were, in fact, hopping into this car and  
8                   driving it away with her inside. Initially he told her,  
9                   give me your money, and initially she told you she  
10                  thought she was being robbed. It was not until they got  
11                  to the second street that he then took his pants down and  
12                  forced her to perform oral sex and later on penis to  
13                  vagina sex.

14                 So, again, his intentions are shown by his  
15                 actions. And then Arthur Jemison acted willfully and  
16                 maliciously. Now, when you act willfully and maliciously  
17                 the Defendant essentially knew it was wrong to do these  
18                 acts and that he -- and he knew it was wrong to confine  
19                 Talisha Sams Dowe in this car.

20                 Again, she did not give him permission to  
21                 confine her and then he knew he did not have legal  
22                 authority to do so. Same theory, again, she did not give  
23                 him permission to take her to the second street. So I  
24                 would again submit to you that the first element -- or  
25                 the first theory which is the kidnapping theory which is

1        what we just went over has been satisfied beyond a  
2        reasonable doubt.

3                However, I'm giving you two theories. I  
4        would submit to you that both theories have been proven  
5        beyond a reasonable doubt but, again, you have the option  
6        of the two theories. Now, the second theory is that the  
7        Defendant was armed at the time with a weapon or any  
8        object fashioned in a manner to lead Talisha Sams Dowe to  
9        reasonably believe that it was a weapon and so breaking  
10       this down I would submit to you that the weapon, Miss  
11       Talisha Sams Dowe testified I believe that it was -- she  
12       named the type of gun it was. I believe she said a .9  
13       millimeter.

14               Again, go with your memory as to how you  
15       recall her testimony. She described it for you. She  
16       said the color of it. She demonstrated for you how he  
17       cocks the gun back, how, you know, the way he had it and  
18       the way she held it, she demonstrated for you as she was  
19       sitting in the witness chair.

20               So I would submit to you that it was, in  
21       fact, a weapon or any object used or fashioned in a  
22       manner to lead Miss Dowe to reasonably believe that it  
23       was a weapon. Again, she -- the way that his actions  
24       were when he held this gun and the way that he cocked the  
25       gun lead her to believe that it was, in fact, a weapon



1 and so that is satisfied. You can check that box.

2 Now, what are the jurors duties when  
3 you're deliberating today? And, again, I want to thank  
4 you for your time. I know you've all been very patient  
5 and sat with us through this trial. We've moved this  
6 along for you and presented our evidence. We appreciate  
7 your time.

8 Jurors duties here are to follow your oath  
9 which the Judge will give you which is to render a true  
10 and just verdict based on the evidence introduced and to  
11 hold the People to beyond a reasonable doubt which is not  
12 beyond all doubt.

13 During voir dire it was questioned about  
14 what's the difference between beyond a reasonable doubt,  
15 beyond all doubt and to do beyond all doubt would mean  
16 that someone would actually have to perhaps be there.  
17 Again, that's just a suggestion or theory.

18 There's not like a glass or a cup that you  
19 pour water or sand into to determine how much is  
20 reasonable doubt, how much is beyond all doubt and,  
21 again, the Judge will further describe for you beyond a  
22 reasonable doubt and not beyond all doubt and, again, I  
23 would submit to you that you're only holding me to the  
24 burden of beyond a reasonable doubt.

25 Now, the jury, you guys, are the judges of

1 the facts and the evidence in this case was the testimony  
2 of the witnesses and then any evidence that was admitted.  
3 If you at any time want to view any of the admitted  
4 reports or any of the admitted exhibits all you have to  
5 do is ask the deputies for them and the rape kit is also  
6 present for you if you want to take a look at it and Miss  
7 Dowe, her testimony has established all the elements of  
8 the offenses and then Lashawn Cooper testified that she,  
9 in fact, did meet with Miss Dowe later on that afternoon  
10 and, in fact, took her to the hospital.

11 She told you Miss Dowe's demeanor when she  
12 saw her, that this demeanor was unusual for Miss Dowe and  
13 then Andrea Sams tells you that she did not meet her  
14 child's father until the year 1999 and Talisha was not  
15 introduced to the Jemison family in 1999, the year 2000.  
16 Does this sound like a Lifetime movie? I don't know.  
17 You tell me.

18 Is it a coincidence that she ran into her  
19 rapist later on in life? I don't know. You tell me.  
20 This is -- the fact remains that this isn't Lifetime.  
21 This is real life and this did, in fact, happen to Miss  
22 Sams Dowe. So I would submit to you that these two  
23 ladies, Talisha Sams Dowe and Andrea Sams, again, did not  
24 know the Jemison family in the year 1996 and, again, you  
25 have independent corroboration with Andrea Sams and so

1 for -- you know, it's essentially what do they have to  
2 gain?

3 What do they have to gain for making a  
4 police report in 1996 and saying, I don't know who my  
5 assailant was, I don't know who assaulted me? And then  
6 to meet him in the year 2000, it's a coincidence and it  
7 happened and Talisha was truthful about that because,  
8 again, what does she to gain?

9 You also heard from Elemuel Crankfield  
10 who, again, testified that he gave Talisha that necklace,  
11 that Herringbone necklace that she was wearing, and then  
12 he saw it the days prior before the assault, he saw the  
13 necklace and then after the assault he never saw it  
14 again.

15 Why did he never see it again? Because it  
16 was taken from Talisha during this assault. You also  
17 heard from Officer Clarence Bennett who testified he was  
18 the desk officer who essentially was taking reports from  
19 people who walked in and that he did, in fact, take a  
20 report from Talisha Sams Dowe.

21 Now, you heard from Doctor Mark Kerschner  
22 who, again, was the doctor at the emergency room who, in  
23 fact, performed this rape kit on Miss Sams and even  
24 Doctor Kerschner was able to testify and tell you that in  
25 his experience as an emergency room physician he's come

1 across victims of trauma, victims of rape, and there's no  
2 right or wrong way for a victim of trauma or victim of  
3 rape to act and the way her demeanor was described was  
4 within the range of behavior that he has seen from  
5 victims of trauma.

6 And again, from Catherine Maggert and  
7 Derek Cutler, they are the forensic scientists and also  
8 the lab reports when you look at the evidence admitted  
9 that I.D. the Defendant. The identification of the  
10 Defendant comes through these witnesses.

11 At the time he was unknown and Talisha  
12 could not identify him as her assailant and she, again,  
13 gave you reasons why. His cap was pulled down. He  
14 pulled on weight and, ladies and gentlemen, I would  
15 submit to you that it happened to me, too, I put on  
16 weight as well. We all do. It happens. We can lose or  
17 gain weight. That is not anything to distract you.

18 Again, it's what her observations were at  
19 the time and both of these, Catherine Maggert and Derek  
20 Cutler will tell you they received this rape kit and I  
21 anticipate you're going to hear argument about the chain  
22 and custody regarding this rape kit and how it got from  
23 one place to the next and, ladies and gentlemen, I would  
24 submit to you that we, the People, have proven our burden  
25 beyond a reasonable doubt as to the chain and custody and

1 as long as this evidence is what it is proffered to be to  
2 a reasonable degree of scientific certainty that I am  
3 saying that it is this rape kit and that we've maintained  
4 the chain of evidence to a reasonable degree of  
5 scientific certainty, I would submit to you, ladies and  
6 gentlemen, that the rape kit's chain and custody, there  
7 may be small gaps in it and there's nothing wrong in the  
8 law with small gaps.

9 I would submit to you that if you want to  
10 run a theory that the nurse did something to this before  
11 it was sealed, that the doctor did something to this rape  
12 kit before it was sealed, I would submit to you these are  
13 conspiracy theories. Nobody had anything out for Mr.  
14 Jemison.

15 Nobody knew who he was at the time except  
16 for his DNA to get into that rape kit, you have to ask  
17 how it got there and the only explanation for how it got  
18 there was because he raped Talisha Sams Dowe and then  
19 when the doctor was doing the genital examination they  
20 were able to collect the semen that he left behind.

21 Now, Investigator Ted Wasik did testify  
22 and he told us that he took a statement from Miss Sams  
23 Dowe and you heard that there were inconsistencies and  
24 there were consistencies and so, again, I would submit to  
25 you that Investigator Ted Wasik told us that he learned

1           how to do his job from on-the-job training.

2                       Now, there's nothing wrong with on-the-job  
3 training, but I would submit to you, ladies and  
4 gentlemen, that if you can do a trauma informed  
5 interview, which is what Detective Sabo told you about  
6 how this is, in fact, new information, these are new  
7 studies that are coming out, this is new training that's  
8 available and how a trauma informed interview you're  
9 going to get more information.

10                      You're going to get more details and,  
11 again, I believe Ted Wasik testified to you that he took  
12 that statement that night from her so when she is  
13 assaulted at six or seven o'clock in the morning and then  
14 he's taking it from her that night it's been performed  
15 even less than twelve hours and she hasn't had time to  
16 even process what happened to her and I'm not trying to  
17 make excuses for why there were inconsistencies in her  
18 statement.

19                      I'm just telling you that it's possible  
20 that this could have happened because she didn't have  
21 time to digest what, in fact, happened to her and I will  
22 get to that in a moment. I just want to show you the  
23 evidence you have also includes medical records, line-up  
24 sheet, maps and the rape kit which, again, are all  
25 available for you.

1 Now, the Judge is going to give you an  
2 instruction to tell you on how to evaluate the  
3 credibility of witnesses and what things to consider.  
4 Now, one of the things you can consider is the witness'  
5 ability to hear or see, if they had any distractions, the  
6 witness' memory, the witness' appearance during  
7 testimony, does the witness seem to be making an honest  
8 effort to tell the truth?

9 Does the witness seem to be evading  
10 questions or arguing with lawyers? Does the witness have  
11 any bias or prejudice or any personal interest in how  
12 this case is decided? And in general, does the witness  
13 have any special reason to tell the truth or any special  
14 reason to lie? And the reasonableness of the testimony  
15 when looking at all of the evidence.

16 Now, again, I would submit to you that if  
17 Talisha Sams wanted to pin this on Arthur Jemison and she  
18 knew who he was she could have done it in 1996. She  
19 could have told the police that, I know who my rapist is.  
20 It's that guy, go get him, let's take this to court in  
21 1996.

22 That didn't happen and I would submit to  
23 you that the reason she's here today and the reason she's  
24 participating in this, the reason she's interrupted her  
25 life from twenty years ago is that she wants justice and

1 no other reason other than she wants justice and does the  
2 witness have any special reason to lie or any special  
3 reason to tell the truth?

4 My question is, why make this up? And,  
5 again, this is not a red herring. This is an essential  
6 question. Why go through going to the police and then  
7 going for an evasive examination that requires doctors to  
8 insert a speculum into the vagina and then collect a rape  
9 kit and the doctor also told you they had to do combings  
10 of public hair, something that is not very comfortable  
11 and she went through it.

12 Why did she go through this examination?  
13 She went through it because she had been raped and so  
14 what is her motivation to lie? I would submit to you,  
15 ladies and gentlemen, she has none. There's no  
16 motivation for her to lie and so now I want to ask you or  
17 to submit to you, ladies and gentlemen, that she has been  
18 completely consistent in the elements of the offense.

19 So when we went through the elements, the  
20 first element and the second element that has to do with  
21 the Defendant's conduct. Those elements all involve the  
22 Defendant's conduct.

23 Not once in those elements did you see  
24 anything that said, how did the victim behave, how did  
25 the victim act? And they didn't ask, what was the victim



1       doing before the assault? And it didn't ask, what was  
2       the victim doing after the assault? It was the elements  
3       of those offenses, the elements that you need to prove  
4       the Defendant guilty are what happened during the actual  
5       assault.

6               So she has been consistent about the  
7       actual assault itself. She has been consistent about  
8       sitting in a passenger car when her worst nightmare  
9       jumped into the passenger -- or into the driver's seat.  
10      That was her worst nightmare when that man jumped into  
11      that seat and we know it was Arthur Jemison because his  
12      DNA was found in her rape kit and, again, these facts  
13      alone when he jumped into that seat and then sexually  
14      penetrated her orally or vaginally, those are the  
15      elements of the offenses and, again, his identity was  
16      proven through the rape kit.

17             Now, let's again focus where our -- let's  
18      keep our focus where it belongs. Our focus belongs on  
19      the Defendant, Arthur Jemison and his actions. Now,  
20      remember that the burden of proof, beyond a reasonable  
21      doubt, always remains with me. It never transfers to the  
22      defense, but I would submit to you I have proven this  
23      case beyond a reasonable doubt and what she did before or  
24      after the assault is not an offense.

25             You're probably going to hear that she's

1 going to be put on trial and this trial should be about  
2 her and what she did and I would submit to you that  
3 that's not what we're here for.

4 The reason we are here is because of the  
5 Defendant's actions in 1996. So before you know it, I  
6 submit to you that you're going to hear that, again, it's  
7 about the Defendant and before you know it, it's going to  
8 become about the victim and that's not what you should be  
9 doing when you're deliberating.

10 Her actions are important. I would submit  
11 to you that they are, but it's important to remember that  
12 it's about what the Defendant's actions were. She is  
13 going to be put on trial and it's going to be -- they're  
14 going to raise issues about her memory and I would submit  
15 to you, ladies and gentlemen, there's a difference  
16 between memory and credibility and the difference between  
17 memory and credibility is that she's been consistent in  
18 what she has remembered since -- in 2015, 2016.

19 This was twenty years ago and she's doing  
20 her best to tell you what she remembers and I would  
21 submit to you that it would maybe even be easier for her  
22 to take that witness stand and easier for her to say,  
23 yes, I agree that I didn't tell the cops about the  
24 fellatio and, yes, I agree I didn't tell the cops about  
25 Delano, having consensual sex with him, yes, I agree that

1 I didn't tell the cops about -- or to not even tell us  
2 about going to Ebony's house.

3 It would have been easier for her to even  
4 omit this fact about going to Ebony's house, but she's  
5 not omitting it. She's telling us about it because --  
6 she's telling us about it because it actually happened  
7 and she wants, again, full disclosure to tell you what  
8 happened to her that morning and it would have been  
9 easier for her to say that she went straight from that  
10 car to her grandmother's house and to simply modify her  
11 testimony to what was in her original statement and she's  
12 not modifying the testimony and so because she's not  
13 modifying her testimony that, ladies and gentlemen, is  
14 what gives her credibility.

15 Again, you can attack her memory all you  
16 want. Her credibility is one hundred percent intact.  
17 Her memory about what happened before and after the  
18 assault is not an element of the offense.

19 Now, I would also submit to you, ladies  
20 and gentlemen, that if all the testimony was cookie  
21 cutter that should also raise some suspicions because  
22 we're all human so, again, because she's not conforming  
23 her testimony to what was in her statements in 1996 that  
24 is actually again, showing her credibility because she's  
25 telling you what happened to her as she remembers it, not

1        what -- based upon what some other people wrote because,  
2        again, none of this was in her handwriting. We can't  
3        even say she wrote it.

4                We're going off of what other people wrote  
5        down and it's like playing the game of telephone. When  
6        people are saying things to you, perhaps even when being  
7        emotional things can get jumbled. I'm not making  
8        excuses, but I'm telling you that it happens.

9                I would submit to you, ladies and  
10       gentlemen, that she's never been intentionally trying to  
11       deceive you. During her testimony she answered my  
12       questions as well as the defense questions and she never  
13       got argumentative.

14               She never started to fight or say, I'm not  
15       answering that. She's never stormed off the witness  
16       chair. She did her best to listen to every question and  
17       then answer it truthfully as much as she could and she  
18       should actually be commended for not changing her  
19       testimony to reflect to make it cookie cutter because,  
20       again, cookie cutter testimony should be more suspicious  
21       than the testimony that she told us about.

22               Now, she's telling us what she remembers  
23       as far as she's not -- she could have even made this  
24       worse for the Defendant. She could have said, yes, he  
25       hit me with that gun and that could have potentially

1 created another charge, but she didn't tell us he hit her  
2 with that gun. She said she was hit later on by her  
3 friend at Ebony's house and, again, she's not putting  
4 something on him that he didn't do. She's only putting  
5 on him what he, in fact, did. She's only testifying  
6 about what he did.

7 So if she wanted to make it worse she  
8 could have very much said to us that the Defendant, in  
9 fact, is the one who hit her and, your Honor, she's not  
10 doing that. So I would again submit to you that a woman  
11 never gives up her right to say no and in a sexual  
12 encounter she never gives up her right to say no and,  
13 again, putting the victim on trial and I submit to you  
14 don't do this, but in some form or fashion you may not  
15 agree with her being an exotic dancer.

16 You may not agree in some form or fashion  
17 with her having sex on the first date but, again, those  
18 aren't elements of the offenses and no matter what  
19 happened, whether you approve or disapprove of her  
20 conduct it doesn't matter because she still does not  
21 deserve to be raped and in that car when she was waiting  
22 she was minding her own business.

23 She had every legal right to be sitting in  
24 that car on Weyher Street and essentially she was doing  
25 nothing wrong. She was waiting for Delano to return and

1       that's when the Defendant hopped in the car and, again,  
2       invaded her space, invaded her right to be in that car.

3               So essentially I would submit to you,  
4       ladies and gentlemen, that Miss Sams Dowe is just as much  
5       a victim as a housewife who is baking cookies in her  
6       kitchen and some other perpetrator came in because,  
7       again, she was doing nothing wrong.

8               Now, I would submit to you or the Judge is  
9       going to tell you that the victim's word alone is enough  
10      to convict. Her testimony does not have to be  
11      corroborated and essentially on this record you've heard  
12      unrefuted testimony of what happened to her that day.

13              No one has come up here and said that it  
14      happened any way different. There has been no other  
15      testimony that, you know, it did happen a different way  
16      or that she went somewhere else. Essentially the  
17      witnesses you did hear did corroborate her testimony.

18              You heard from her sister Lashawn and her  
19      sister Andrea and then you also heard from Elemuel  
20      Crankfield and then again you heard from the doctor.  
21      These witnesses all corroborate her testimony because her  
22      testimony has been unrefuted.

23              Now, Miss Sams Dowe did everything she was  
24      suppose to do. She was suppose to report to the police  
25      and then get a rape kit. That was her responsibilities.

1 So the fact that this case -- that the rape kit was sent  
2 to Detroit property and sat for nineteen years before it  
3 was tested has no bearing. That's not her  
4 responsibility.

5 It was not her responsibility to  
6 investigate or develop a suspect. She did everything she  
7 was suppose to do and it was agreed that just because  
8 this case sat for nineteen years doesn't mean that a jury  
9 can't hear it, that a jury can't listen to the testimony  
10 and if she knew who her rapist was in 1996 why didn't she  
11 identify him?

12 Why didn't she jump up and down and say  
13 that she didn't know who this perp was? Why didn't she  
14 tell the hospital staff or the police? And she had  
15 maintained that she didn't know him and I would submit to  
16 you, ladies and gentlemen, if that was a lie she would  
17 have got caught up in it somewhere because between  
18 talking to all these different officers and talking to  
19 all these different people between her sisters, Elemuel  
20 Crankfield, between talking to the police officers,  
21 Investigator Wasik and Police Officer Bennett as well as  
22 the doctor at the hospital.

23 Somewhere along that line if she was lying  
24 about that it would have come out so you can't maintain  
25 that lie for that long without telling somebody.

1                   Now, Miss Dowe has chosen -- Miss Sams  
2           Dowe has chosen to interrupt her life to come here and be  
3           here and to testify. Nobody forced her to come in here.  
4           Nobody said, you must go forward and testify. She is  
5           here today because she -- this, in fact, happened to her.

6                   She has had to testify about probably one  
7           of the worst experiences in her life and she's had to  
8           have multiple people asking her questions. I would  
9           submit to you, ladies and gentlemen, if someone started  
10          asking you questions about the last time you had sex it  
11          would be very difficult to do and for her to do it again,  
12          lends to her credibility and essentially it's been twenty  
13          years.

14                   What does she have to gain over twenty  
15          years to come back here now? The reason she's here now  
16          is she wants justice and nothing further.

17                   Now, ladies and gentlemen, I would also  
18          submit to you that after twenty years if there was a big  
19          conspiracy to get Arthur Jemison, that would require the  
20          Detroit Police Department. It would require the doctors  
21          and nurses at Detroit Receiving Hospital. It would  
22          require the Wayne County Prosecutor's Office. It would  
23          require the Michigan State Police and Sorenson Forensics  
24          as well as Miss Sams Dowe to get together and put this  
25          case and think and say, we're going to go out and we're



1 going to get Arthur Jemison and for all these people, for  
2 all these agencies to get together and say, we are going  
3 to pin this on him, we're going to tamper with the rape  
4 kit, we're going to, I don't know, we're going to put  
5 his semen into her vaginal swab, all these people would  
6 have to corroborate to do that.

7 I would submit to you that, again, some  
8 conspiracy theory, it doesn't make sense. And so I would  
9 submit to you that it makes more sense that we're here  
10 because Talisha Sams Dowe was raped twenty years ago.  
11 That's why we're here today.

12 So all the elements of the two counts, the  
13 oral penetration and the vaginal penetration have been  
14 satisfied beyond a reasonable doubt and I told you I  
15 would be asking you to find the Defendant guilty not  
16 because I say he's guilty, but because the evidence has  
17 shown he's guilty.

18 And so I want to thank you for your time  
19 and I ask that you find him guilty because the evidence  
20 has shown that he's guilty. Thank you.

21 THE COURT: Mr. Glenn.

22 MR. GLENN: Thank you. Good morning,  
23 everyone.

24 JURY (In unison): Good morning.

25 MR. GLENN: Now, this is my last

1 opportunity to address you before you begin to deliberate  
2 in this matter and, like I said at the beginning of my  
3 opening statement, this is a short trial, but it's an  
4 important trial because you're going to have to determine  
5 what took place or what happened back in September of  
6 1996, who you believe, what you believe, what you don't  
7 believe happened.

8 Now, this is a rape kit case. We've gone  
9 ad infinitum about the DNA that was on the swabs that was  
10 taken from Receiving Hospital and, like I said during  
11 opening statement here, the DNA here is not as conclusive  
12 as the People are purporting it to be.

13 Remember, the facts that they're  
14 presenting to you is that no one else could have done  
15 this because Mr. Jemison's DNA was in her vagina, Miss  
16 Sams Dowe's vagina, but that's not what the DNA kit  
17 showed.

18 It showed another person was there. Two  
19 people were there. It's not consistent with what Miss  
20 Sams Dowe was testifying to here in court. Now, the DNA  
21 level for the second person wasn't to a level where you  
22 could make an identification, where you could put it into  
23 a computer and do a background and do a comparison.

24 You can identify a person who's there, but  
25 you can't make -- you can identify that a person is

1       there, but you can't tell who it is because the DNA over  
2       a period of time has degraded. Now, going back to  
3       whether or not you are talking about credibility of Miss  
4       Sams Dowe or not let's start talking about, well, what  
5       was she doing on that night?

6               Let's go back to September the 14th, two  
7       o'clock in the morning. Outcast Motorcycle Club. What's  
8       she doing? Oh, she's a dancer. She's an exotic dancer.  
9       No, she's giving lap dances to people in the motorcycle  
10      club for tips.

11             Now, we're all adults. What's a lap dance  
12      if not simulated sex, for money? Now, according to Miss  
13      Sams Dowe's own testimony here she gave a lap dance to a  
14      person that she had just met and she only knew him as  
15      Delano and that when the club closed down at five o'clock  
16      they decided to leave to go have breakfast somewhere at  
17      some Coney Island downtown.

18             Outcast Motorcycle Club, according to Miss  
19      Sams Dowe is Grand River and 14th Street and she figured  
20      it was going to take about twenty minutes to get  
21      downtown. Well, on the way downtown one word leads to  
22      another and Delano and her decide to go to I believe it  
23      was Delano's cousin's house and they had consensual sex.

24             Now, just met this person, gave him a lap  
25      dance and have consensual sex. Now, this is something

1       that wasn't disclosed to the police during any of the  
2       reports during her initial contact back in 1996. This  
3       just came up twenty years later when she's on the witness  
4       stand. It's not in any of the police reports. Why?  
5       Because this tells you what she was doing on this night,  
6       how she was making her money, what she was doing, the  
7       people that she was encountering.

8               It wasn't just some smooth talking guy in  
9       the car on the way to the Coney Island who just dropped  
10      the magic word and they said, oh, yeah, boom, he did it  
11      and we just need to get together and stop off at a house.  
12      Is that what happened? Or was it money for sex? You're  
13      all adults. You don't have to put the stupid hat on  
14      because this is a sex case and we're talking about  
15      regular human beings here.

16             Miss Sams Dowe was working at the club.  
17      Now, what was she doing before two o'clock in the  
18      morning? Two o'clock in the morning when you start work  
19      at a club, it's so late it's early. For three hours,  
20      what was she doing before then? Oh, she got with her  
21      friend and they took the cab from the east side going  
22      over to the Outcast Motorcycle Club.

23             That was, what, Ebony Jones, LaChelle,  
24      Shonta, the other exotic dancers, the other lap dancers  
25      at the club and then after this was over with she walks

1 over to the house and she tells Ebony Jones and Ebony  
2 Jones doesn't believe her. Ain't that the person you  
3 just rode over to the motorcycle club with a few hours  
4 earlier? That's your girl, right? She doesn't believe  
5 you?

6 Now, why is that? What was going on that  
7 she doesn't believe and the fight erupts and she gets  
8 socked in the eye by some other lady that's in the house  
9 and then what happens later on? Oh, that injury to the  
10 eye becomes something that's not with Shonta's cousin or  
11 friends did to her. Oh, this is something that the  
12 perpetrator did. He hit her with his fist. He hit her  
13 with the gun.

14 Those are things that were added on just  
15 to embellish her side of the story and what about this  
16 car, this Monte Carlo? Now, according to Miss Sams Dowe  
17 this is a nice looking car and if you believe her  
18 testimony that when they went on Weyher Street and Delano  
19 gets out of the car and goes up into the house he's in  
20 there, what, thirty, forty minutes and he comes back,  
21 pulls up the street a few houses at the end of the block,  
22 gets out, goes into another house and this other person  
23 comes in, it's the perpetrator, gets in the car and does  
24 these things to her, forces her to drive to another  
25 location and then rapes her and then drives off in the

1 car.

2 Well, whatever happened to the Monte  
3 Carlo? What happened to Delano? Well, whatever happened  
4 to the Monte Carlo? What happened to Delano? Well, this  
5 Monte Carlo, well, you know, a car is a car, what the  
6 heck. I came outside and it was safe to get in my car.  
7 The girl I picked up at the motorcycle club, her and my  
8 car are gone. And nothing else happens with that.

9 Ask the police officers, any cars reported  
10 stolen that night? Delano looking for his car? No.  
11 None of that happened. Does that ring true? Is that  
12 something that somebody would just say, oh, well, you  
13 know, so what. I couldn't care about that car anyway.  
14 Just let the lap dancer at the club have it and what does  
15 Miss Sams Dowe do?

16 Does she go back to the club and say,  
17 well, hey, wait a minute. I left here with Delano, went  
18 to a place here and I was raped. Did she go back to the  
19 club and say, hey, where's this Delano guy? Maybe he  
20 knows the guy that did this. Maybe he knows people who  
21 were in the area. Does she do any of that? No, she goes  
22 to another location with her sister so that, oh, well,  
23 people won't think I stole his car.

24 Do you remember that? Does that ring  
25 true? No, it doesn't ring true. Why would somebody when

1       they're giving an account to the police leave out the  
2       most important fact about the sexual assault, fellatio?  
3       How can you forget that? How can you forget that?  
4       That's not in the police report. How can you forget  
5       having consensual sex with Delano. How can you forget  
6       that?

7               When this incident was over with and Miss  
8       Sams Dowe was forced out of the car what did she do? She  
9       said she walked from Belvidere to Van Dyke, Van Dyke to  
10      Mack. That was Ebony Jones' house. How far was that?  
11      Several blocks.

12             What time of day is this? It's not the  
13      middle of the day at this time. It's light outside. How  
14      many businesses did you cross? Did you see anybody on  
15      the streets? Did you try to tell anybody what happened  
16      to you? No.

17             She just went to a friend's house, told  
18      them what happened. They didn't believe her, gets in a  
19      fight and then she leaves and she walks to her  
20      grandmother's house and that was, what, from Van Dyke and  
21      Mack to Sheridan, more blocks, more time, nothing's done.  
22      No attempt to tell anybody what was going on. Does that  
23      ring true? No, it doesn't ring true.

24             Now, the prosecutor's talking about  
25      conspiracy theories and I don't see anything about

1 conspiracy theory here. Look at a rape kit and it's  
2 like, well, okay, if you have a one on one in the rape  
3 kit that's one thing, but that's not what you have here.  
4 How do you rule out the other DNA that's in the rape kit?

5 Now, you know from talking to the  
6 scientists we have two fractions here, epithelial skin  
7 cells, something that's not related to sperm. They  
8 needed the sperm fractions. Why the sperm fraction?  
9 Because that's male. That's sex. You have sex,  
10 fractions with the sperm. You have two identifications  
11 on DNA with the sperm fraction. Two males.

12 That's why you have the sperm fraction  
13 here because you can eliminate females. You have two  
14 male DNA in Miss Sams Dowe's vagina. Who was the other  
15 unknown person here? Are we just suppose to guess who it  
16 is? Miss Sams Dowe knows, but she's not telling. You  
17 have to rule that out.

18 Now, see, just because you don't have  
19 enough DNA to make an identification, well, the person we  
20 can make an identification of, that's who the rapist is.  
21 No, that's not how it works.

22 Beyond a reasonable doubt there were two  
23 people who were there, two males who were there and who  
24 are they? You don't know. This is a twenty year old  
25 case and Miss Sams Dowe did probably what a lot of women



1 would do, want to wash themselves, take a shower. Well,  
2 you wash away the evidence. She admitted she washed,  
3 soap and water.

4 These are the things that wash away some  
5 of the things that could help solve a case like this.  
6 Now, you don't want to disparage anyone, but you have to  
7 be fair, too. This is not like a lady who was inside of  
8 her kitchen cooking and some intruder comes in and does  
9 this.

10 This is a person who's working at a club,  
11 who's soliciting dates in a club, sex for money in the  
12 club. That's what she's doing. Now, did she get raped  
13 or not? That's for you to determine, but the semen  
14 that's found inside of her is not something that can be  
15 ruled out by, oh, the only person who could have done  
16 this is the person that raped her.

17 No, she was working the club doing lap  
18 dances and that's not like a person that's just dancing  
19 or bussing tables or waiting tables or cleaning tables or  
20 anything like that. That's a specific function at an  
21 after hours place, two o'clock in the morning.

22 Well, most of the other legitimate places  
23 are closed at that time. This is some after hours place  
24 where something else -- a little bit more stuff is going  
25 on. This is a short case, but it's an important case.

1 Now, when you're talking about whether or  
2 not there's a conspiracy theory here, Miss Sams Dowe on a  
3 number of occasions had an opportunity to look at Mr.  
4 Jemison, photo identification, 2000 when they met. Photo  
5 identification, officers said, well, do you know this  
6 person right here? Yeah, that's Artie. Well, why didn't  
7 you pick out Artie? Because he couldn't have done this.  
8 He couldn't have done this. The weight was different.  
9 His appearance was different. He's not the person who  
10 did this.

11 It's not a case where you say, well, yeah,  
12 now that I think about it, it was him. I recognize his  
13 voice now. That's not what she said at all. It's not  
14 him. That's what she'd say.

15 Our prosecutor comes in and say, well, the  
16 DNA here, well, this is what we have here, well, we only  
17 formally met. Well, she's out here giving lap dances to  
18 strangers. Does she know every person that she took a  
19 date from? Probably not.

20 Do you have to be formally introduced to  
21 each other to know what's going on? No. This incident  
22 took place several minutes face to face. Several  
23 descriptions about whether or not the person had brown  
24 eyes or not. You're close up to him. I turned my face.  
25 I didn't look at him. But you were close enough to see

1 he had a thin mustache, he had brown eyes. You saw that.  
2 You heard his voice.

3 Then we just saw his picture later on.  
4 That's Artie. That's not him. At the point in time he  
5 was about three hundred pounds. This person right here  
6 was a hundred and fifty pounds, a hundred and sixty  
7 pounds, thin, slim. Doubling your weight is not putting  
8 on weight. That's a completely different look.

9 Whether or not Miss Sams Dowe wants  
10 justice or not that's one thing. Whether or not you want  
11 to put a case on somebody that's innocent is completely  
12 different. DNA can be a great thing if it's used  
13 properly but then, again, DNA is just like any other  
14 brand.

15 You come in and say DNA and everybody gets  
16 intimidated. Everybody starts backing up and, oh, this  
17 is DNA, therefore, we must believe. Until you start  
18 asking people how they got there, then things start to  
19 break down and it's not as scientific as you once thought  
20 it was.

21 It's not as intimidating as you once  
22 thought it was and you have to look at what the data  
23 tells you and what it doesn't tell you and what you have  
24 here, you have two male DNA in Miss Sams Dowe's vagina  
25 and one is such a level that you can make an

1 identification on. The other level isn't.

2 Who's fault is that? It's a twenty year  
3 old case. It's nobody's fault. If you have enough DNA  
4 to make two identifications here would this case be any  
5 different? Absolutely not. You have John Doe and you  
6 have Arthur Jemison. Which one? You have no way of  
7 knowing, absolutely none.

8 Until you can identify who the second  
9 person was you don't have a case. Short case, but an  
10 important case. Twenty years ago things might have been  
11 fresh in everybody's mind. You might have been able to  
12 put the case together a little bit better than you are  
13 right now, but all you can do is work with what you got.  
14 That's all you can do and see whether anything makes  
15 sense, whether or not the pieces fit together and they  
16 simply don't.

17 Now, my heart goes out to anybody who's  
18 sexually abused, but it's also just as wrong to put a  
19 case on somebody who's completely innocent. Arthur  
20 Jemison didn't commit these crimes and that should be  
21 your verdict.

22 Now, when I asked you during my opening in  
23 voir dire I need people who are on this jury to be  
24 leaders, twelve people are going to speak up and speak  
25 their mind. Your verdict must be your own. You can't

1 just sit back and say, well, you know, this can go either  
2 way. We've already gone on day number four here.

3 You were told it was only going to be two  
4 and a half days; I want to get out of here; ya'll come  
5 together on something and I'll just go along with it.

6 That's not justice, right? Ya'll told me  
7 you were going to give me a true and just verdict here  
8 and that's what I expect you to do.

9 Now, for the people who have done jury  
10 duty before looking at everybody right now, everybody's  
11 got a verdict. I can tell right now everybody in your  
12 mind has got a verdict, but right now this case has been  
13 incredibly easy and for the people who haven't had jury  
14 duty before it's because you have no idea what the other  
15 jurors are thinking cause you haven't deliberated on this  
16 case.

17 Some people can look at the same  
18 testimony, the same evidence that you have and have a  
19 completely opposite findings on the case and you're going  
20 to have to come together on something and make sure that  
21 your verdict is unanimous.

22 No voting by proxy. Nobody can have your  
23 vote. Your vote must be your own. The evidence in this  
24 case falls short of beyond a reasonable doubt. The  
25 People have not proven their case. That should be your

1 verdict. My client's not guilty of any of these charges  
2 simply because he's not the person that committed these  
3 crimes. Thank you.

4 THE COURT: Miss Lozen.

5 MS. LOZEN: Again, remember this is the  
6 case of the People of the State of Michigan versus Arthur  
7 Jemison, not Talisha Sams Dowe. It's not a credibility  
8 contest. We're not here to say whether we like her or  
9 not.

10 In fact, you don't have to say whether you  
11 like her or not. You don't have to say you dislike him  
12 or like him or not. It's rather more about his actions  
13 instead of her actions and basically what I thought would  
14 happen was that she was put on trial and people want you  
15 to believe that you should find him not -- the Defendant  
16 not guilty because of her actions that night and, again,  
17 you don't have to like or dislike it.

18 You don't have to agree with it. It  
19 happened and she was being honest with you and I would  
20 submit to you, ladies and gentlemen, it's actually  
21 insulting when you put her on trial and it's insulting to  
22 go after her character and the best that you've got is to  
23 demean her.

24 Is that really the best you've got? Why  
25 don't we talk about how this DNA got there. You've heard

1 unrefuted evidence about how this DNA -- how the  
2 Defendant's DNA, how his sperm, got into her vaginal  
3 swab. How did it happen?

4 She told you it happened by the Defendant  
5 raping her, by putting his penis into her vagina and it's  
6 insulting to say that just because she was out soliciting  
7 money for sex, again, there's been no evidence on this  
8 record. If they wanted to ask her, were you out  
9 soliciting money for sex, that's all you had to do is  
10 ask --

11 MR. GLENN: Objection.

12 MS. LOZEN: -- and she would have told  
13 you.

14 MR. GLENN: That's not --

15 THE COURT: Overruled. Sit down, Mr.  
16 Glenn.

17 MR. GLENN: Okay. All right.

18 MS. LOZEN: The first thing, instead of  
19 going after her credibility -- they're not attacking her  
20 memory. They were attacking her credibility and it's  
21 insulting again to put her on trial and to say that she  
22 was offering money for sex because, again, there's been  
23 no testimony of that.

24 Rather, focus your attention on how did  
25 his DNA get on to her vaginal swabs. The only evidence

1       you have, the only evidence you know of is because it was  
2       the Defendant raped her.

3               During the closing arguments of the  
4       defense, again, they never brought up the fact that  
5       Delano used this condom and the analyst is going to  
6       testify that, yes, you wear condoms, but condoms are not  
7       one hundred percent.

8               Everybody learns this in eighth grade  
9       biology class when you're learning about human anatomy,  
10      condoms are not a hundred percent and we're speculating  
11      or hypothesizing that it's Delano's DNA in her vaginal  
12      swab, the low level vaginal swab, the low level profile  
13      in there.

14              The analyst testified for one of the  
15      profiles they couldn't even call it genetic material  
16      because it was so low level. It could have just been  
17      something -- they do have to disclose it because for in  
18      the instance of full disclosure they report what they see  
19      and the other profile, again, was so low level that even  
20      if I had Delano and I could take a swab from him and say,  
21      compare it to this, they couldn't even do it because it  
22      was so low level and is there an explanation on how it  
23      got there?

24              I can't -- nobody can tell you. The  
25      analysts can't tell you and they're the ones in the best



1 position to tell you whose profile this is, but I would  
2 submit to you, that is it possible that it came from  
3 having consensual sex with Delano? It's possible.

4 Putting her on trial, again, I'm going  
5 over my notes and instead of focusing on other elements  
6 they're focusing on putting her on trial for being a  
7 dancer and, again, she told you exactly what happened and  
8 she told you exactly what being a dancer meant to her and  
9 I would submit to you that she was not soliciting dates  
10 and she was not asking sex for money.

11 There's been no testimony, no evidence of  
12 that. That should not be considered. I would submit to  
13 you that if a person's the victim of a crime and they're  
14 interacting with their assailant -- interacting with your  
15 assailant is going to be different than interacting with  
16 a friend, with a family friend, and so when you're being  
17 terrified because there's a gun pointed at you and then  
18 this person cocks this gun, it's a different interaction.

19 So trying to compare her interaction from  
20 1996 with Arthur Jemison and her injury in the year 2000  
21 and subsequent with Arthur Jemison, it cannot be made.  
22 You can't say that she should have known who her rapist  
23 was or she should have known Arthur Jemison was her  
24 rapist because they met in the near 1996. They didn't  
25 meet in 1996.

1           There was no introduction. There was no,  
2           hi, how you doing. This was her being raped by someone  
3           who started to rob her and rape her so her state of mind  
4           at that time, she's terrified. She's frozen. She said  
5           why she couldn't even jump out of that car because,  
6           again, he had that gun on her.

7           So comparing interaction from 1996 to the  
8           year 2000 it can't be done. You can't make that  
9           comparison and, again, the only evidence on this case was  
10          testimony from Miss Sams Dowe and how the Defendant's DNA  
11          got there, it's unrefuted and the only way that it got  
12          there is because he raped her and, again, if Delano would  
13          have not used a condom, again, would you have expected to  
14          see more of a profile there? Perhaps.

15          Maybe it's possible, but he used a condom  
16          and so that's not an element of the offense. The  
17          elements of the offense is that the Defendant's DNA was  
18          there. His identity was proven through the rape kit  
19          through the work that the analyst did and I would submit  
20          to you, ladies and gentlemen, that all of the elements of  
21          the offense that Miss Dowe testified to, again, unrefuted  
22          testimony has been proven beyond a reasonable doubt and I  
23          would submit to you that anything else is ridiculous to  
24          try to say that the reason you shouldn't convict is  
25          because you don't know who this other person's DNA is.

1                   There is a possible explanation for it.  
2           No one's going to be even -- even if this was test --  
3           well, I'm not the analyst so I can't say that, but this  
4           particular kit we know who the major profile was. We  
5           know that it exceeds more than seven trillion and we know  
6           that the population of the planet earth is --

7                   MR. GLENN: Objection. Those stats didn't  
8           come in.

9                   THE COURT: Overruled, counsel.

10                  MS. LOZEN: The analyst testified that the  
11           profile that they testified the stats are -- or how often  
12           they would expect to see that again exceeded seven  
13           trillion and the population of the earth is I believe  
14           around eight -- the analyst testified around eight  
15           billion.

16                  She said she would only expect to see this  
17           profile once on earth and the one profile that you would  
18           see here is the Defendant and, again, she confirmed his  
19           identity through that buccal swab that was taken by  
20           Detective Sabo after doing another double check analysis  
21           and I would submit to you, ladies and gentlemen, you have  
22           everything that you need to find the Defendant guilty.

23                  Everything that you have, again, was  
24           submitted through the evidence in this trial through Miss  
25           Sams Dowe's testimony and, ladies and gentlemen, I would

1 ask you to find him guilty because the evidence has shown  
2 he's guilty. Thank you.

3 THE COURT: All right. All right.  
4 Members of the jury, the evidence and arguments in this  
5 case are finished. I will now instruct you on the law.  
6 That is, I will explain the law that applies to this  
7 case.

8 Remember that you have taken an oath to  
9 return a true and just verdict based only on the evidence  
10 and my instructions on the law. You must not let  
11 sympathy or prejudice influence your decision. As jurors  
12 you must decide what the facts of this case are. This is  
13 your job and nobody else's. You must think about all the  
14 evidence and then decide what each piece of evidence  
15 means and how important you think it is.

16 This includes whether you believe what  
17 each of the witnesses said. What you decide about any  
18 facts in this case is final.

19 It is my duty to instruct you on the law.  
20 You must take the law as I give it to you. If a lawyer  
21 says something different about the law follow what I say.  
22 At various times I've already given you some instructions  
23 about the law. You must take all my instructions  
24 together as the law you are to follow. You should not  
25 pay attention to some instructions and ignore others. So

1       sum it up, it is your job to decide what the facts of the  
2       case are, to apply the law as I give it to you and in  
3       that way decide the case.

4               A person accused of a crime is presumed to  
5       be innocent. This means you must start with the  
6       presumption that the Defendant is innocent. This  
7       presumption continues throughout the trial and entitles  
8       the Defendant to a verdict of not guilty unless you are  
9       satisfied beyond a reasonable doubt that he is guilty.

10              Every crime is made up of parts called  
11       elements. The prosecutor must prove each element of the  
12       crime beyond a reasonable doubt. The Defendant is not  
13       required to prove his innocence or to do anything. If  
14       you find that the prosecutor has not proven every element  
15       beyond a reasonable doubt then you must find the  
16       Defendant not guilty.

17              A reasonable doubt is a fair honest doubt  
18       growing out of the evidence or lack of evidence. It is  
19       not merely an imaginary or possible doubt, but a doubt  
20       based on reason and common sense. A reasonable doubt is  
21       just that, a doubt that is reasonable after a careful and  
22       considered examination of the facts and circumstances of  
23       this case.

24              Facts can be proved by direct evidence  
25       from the witness or an exhibit. Direct evidence is about

1        what we actually see or hear. For example, if you look  
2        outside and see rain falling that is direct evidence that  
3        it is raining.

4                Facts can be proved by indirect or  
5        circumstantial evidence. Circumstantial evidence is  
6        evidence that normally or reasonably leads to other  
7        facts. So, for example, if you see a person coming in  
8        from outside wearing a raincoat covered with small drops  
9        of water that would be circumstantial evidence that it is  
10       raining. You may consider circumstantial evidence.  
11       Circumstantial evidence by itself or a combination of  
12       circumstantial evidence and direct evidence can be used  
13       to prove the elements of a crime. In other words, you  
14       should consider all the evidence that you believe.

15               The Defendant's intent may be proved by  
16       what he said, what he did, how he did it or by any facts  
17       and circumstances in evidence. As I said before, it is  
18       your job to decide what the facts of this case are. You  
19       must decide which witnesses you believe and how important  
20       you think their testimony is. You do not have to accept  
21       or reject everything a witness said. You are free to  
22       believe all, none or part of any person's testimony.

23               In deciding which testimony you believe  
24       you should rely on your own common sense and every day  
25       experiences. However, in deciding whether you believe a

1 witness, a witness' testimony, you must set aside any  
2 bias or prejudice you have based on the race, gender or  
3 national origin of the witness.

4 There's no fixed set of rules for judging  
5 whether you believe a witness, but it may help you to  
6 think about these questions. Was the witness able to see  
7 or hear clearly? How long was the witness watching or  
8 listening? Was anything else going on that might have  
9 distracted the witness?

10 Did the witness seem to have a good  
11 memory? How did the witness look and act while  
12 testifying? Did the witness seem to be making an honest  
13 effort to tell the truth or did the witness seem to evade  
14 the questions or argue with the lawyers?

15 Does the witness' age and maturity effect  
16 how you judge his or her testimony? Does the witness  
17 have any bias, prejudice or personal interest in how this  
18 case is decided? Have there been any promises, threats,  
19 suggestions or other influence that effected how the  
20 witness testified?

21 In general, does the witness have any  
22 special interest to tell the truth or any special  
23 interest to lie? All in all, how reasonable does the  
24 witness' testimony seem when you think about all the  
25 other evidence in this case?

1 Sometimes the testimony of different  
2 witnesses will not agree and you must decide which  
3 testimony you accept. You should think about whether the  
4 disagreement involves something important or not and  
5 whether you think someone is lying or simply mistaken.  
6 People see and hear things differently and witnesses may  
7 testify honestly, but simply be wrong about what they  
8 hear, what they thought they saw or remembered.

9 It is also a good idea to think about  
10 which testimony agrees best with the other witnesses in  
11 this case. However, you may conclude that a witness  
12 deliberately lied about something that is important to  
13 how you decide this case. If so you may chose not to  
14 accept anything that witness said.

15 On the other hand, if you think the  
16 witness lied about some things, but told the truth about  
17 others you may simply accept the part you think is true  
18 and ignore the rest.

19 There's been some evidence that Talisha  
20 Sams Dowe -- that the complainant made an earlier  
21 statement that did not agree with her testimony during  
22 trial. You must be very careful about how you consider  
23 this evidence. The statement was not made during this  
24 trial so you must not consider it when you decide whether  
25 the elements of the crime have been proven.



1           On the other hand, you must use it to help  
2           you decide whether you think the witness is truthful.  
3           Consider the statement carefully. If the witness made a  
4           statement whether it is true and whether it differs from  
5           the witness' testimony here in court, then remember you  
6           may only use it to help you decide whether you believe  
7           the witness' testimony here in court.

8           However, if the witness testified that the  
9           earlier statement was true or if the earlier inconsistent  
10          statement was given under oath subject to the penalty of  
11          perjury at a trial, hearing or other thing, it may be  
12          considered as proof of the facts in the statement.

13          One of the issues in this case is the  
14          identification of the Defendant as the person who  
15          committed the crime. The prosecutor must prove beyond a  
16          reasonable doubt that the crime was committed and that  
17          the Defendant was the person who committed it. In  
18          deciding how dependable an identification is think about  
19          things such as how good a chance the witness had to see  
20          the offender at the time, how long the Defendant was  
21          watching, whether the witness had seen or known the  
22          Defendant before, how far away the witness was, whether  
23          the area was well lighted and the witness' state of mind  
24          at that time.

25          Also think about the circumstances at the

1 time of the identification such as how much time had  
2 passed since the crime, how sure the witness was about  
3 the identification and the witness' state of mind during  
4 the identification.

5 You may also consider any time that the  
6 witness failed to identify the Defendant or made an  
7 identification or gave a description that did not agree  
8 with her identification of the Defendant during the  
9 trial.

10 You should exam the witness'  
11 identification testimony carefully. You may consider  
12 whether the evidence supports the identification because  
13 then it may be more reliable. However, you may use the  
14 identification testimony alone to convict the Defendant  
15 as long as you believe the testimony and you find that it  
16 proves beyond a reasonable doubt that the Defendant was  
17 the person who committed the crime.

18 You should not decide this case based on  
19 which side presented more witnesses. Instead, you should  
20 think about each witness and each piece of evidence and  
21 whether you believe them. Then you must decide whether  
22 the testimony and evidence you believe proves beyond a  
23 reasonable doubt that the Defendant is guilty.

24 The prosecutor must prove beyond a  
25 reasonable doubt that the crime occurred in Wayne County.

1 Time, however, is not an element of the crime, the crime  
2 of criminal sexual conduct. The prosecutor does not have  
3 to prove the date or time of the offense beyond a  
4 reasonable doubt.

5 The Defendant is charged with two counts.  
6 That is with the crime of criminal sexual conduct in the  
7 first degree and a second count of criminal sexual  
8 conduct in the first degree. These are separate crimes  
9 and the prosecutor is charging that the Defendant  
10 committed both of them. You must consider each crime  
11 separately in light of all the evidence in the case.

12 You may find the Defendant guilty of all  
13 or any one of these crimes or not guilty. You've heard  
14 testimony from witnesses. Doctor Mark Kerschner who has  
15 given you his opinion as an expert in the field of  
16 emergency medicine. Experts are allowed to give opinions  
17 in court about the matters they are experts on.

18 However, you do not have to believe an  
19 expert's opinion. Instead, you should decide whether you  
20 believe it and how important you think it is. When you  
21 decide whether you believe an expert's opinion think  
22 carefully about the reasons and facts he gave for his  
23 opinion and those -- and whether those facts are true.

24 You should also think about the expert's  
25 qualifications and whether his opinion makes sense when

1       you think about all the other evidence in the case.

2       You've also heard expert testimony from a witness by the  
3       name of Catherine Maggert who has given you her opinion  
4       as to the field of serology, forensic biology and DNA  
5       analysis.

6               Experts are allowed to give an opinion in  
7       court about matters they are experts on. As I said  
8       before, you do not have to believe an expert's opinion.  
9       Instead, you should decide whether you believe it and how  
10      important you think it is.

11             When you decide whether you believe an  
12      expert's testimony think carefully about the reasons and  
13      facts she gave for her opinion and whether those facts  
14      are true. You should also think about the expert's  
15      qualifications and whether her opinion makes sense when  
16      you think about all the other evidence in the case.

17             Further expert testimony you heard was  
18      from Derek Cutler who has given you his opinion as the  
19      expert in the field of serology, forensic biology and DNA  
20      analysis. Experts are allowed to give opinions in court  
21      about matters they are experts on. As I said before, you  
22      do not have to believe an expert's opinion.

23             Instead, you should decide whether you  
24      believe it and how important you think it is. When you  
25      decide whether you believe an expert's opinion think

1 carefully about the reasons and fact he gave for his  
2 opinion and whether those fact are true. You should also  
3 think about the expert's qualifications and whether his  
4 opinion makes sense when you think about all the other  
5 evidence in the case.

6 Elements of the offenses. The Defendant  
7 is charged with the crime of criminal sexual conduct in  
8 the first degree. To prove this charge the prosecutor  
9 must prove each of the following elements beyond a  
10 reasonable doubt.

11 First, that the Defendant engaged in a  
12 sexual act that involved an entry in Talisha Sams Dowe's  
13 genital opening by the Defendant's penis. Any entry no  
14 matter how slight is enough. It does not matter whether  
15 the sexual act was completed or whether the semen was  
16 ejaculated.

17 Second, that either the Defendant was  
18 armed at the time with a weapon or with any object  
19 capable of causing physical injury that the Defendant  
20 used as a weapon or with any object used or fashioned in  
21 a manner to lead Talisha Sams Dowe to reasonably believe  
22 it was a weapon, that the alleged sexual act occurred  
23 under circumstances that also involved kidnapping which I  
24 will explain.

25 The elements of kidnapping are as follows.

1 First, that the Defendant forcibly confined or imprisoned  
2 Talisha Sams Dowe against Talisha Sams Dowe's will.

3 Second, that the Defendant did not have the legal  
4 authority to confine Talisha Sams Dowe.

5 Third, that while the Defendant was  
6 confining Talisha Sams Dowe he forcibly moved or caused  
7 Talisha Sams Dowe to be moved from one place to another  
8 for the purpose of kidnapping.

9 If Talisha Sams Dowe was moved as part of  
10 a crime other than kidnapping this is not enough. In  
11 this case, for instance, you should consider whether  
12 Talisha Sams Dowe was moved for the purpose of kidnapping  
13 or was part of the crime of criminal sexual conduct.

14 In determining whether Talisha Sams Dowe  
15 was moved for the purpose of kidnapping you may consider  
16 how far Talisha Sams Dowe was moved and whether being  
17 moved added any greater danger or threat to Talisha Sams  
18 Dowe than the crime of criminal sexual conduct.

19 Talisha Sams Dowe must have been moved for  
20 the purpose of kidnapping and this movement must have  
21 been independent of the other crime. Fourth, that the  
22 Defendant intended to kidnap Talisha Sams Dowe.

23 Fifth, that the Defendant acted willfully  
24 and maliciously. This means that the Defendant knew it  
25 was wrong to confine Talisha Sams Dowe and knew that he

1 did not have the legal authority to do so.

2 The second count that the prosecutor has  
3 charged is criminal sexual conduct in the first degree,  
4 that the Defendant engaged in a sexual act that involved  
5 entry into Talisha Sams Dowe's mouth by the Defendant's  
6 penis. Any entry no matter how slight is enough. It  
7 does not matter whether the sexual act was completed or  
8 whether semen was ejaculated.

9 Second, that the Defendant was armed at  
10 the time with a weapon or with any object capable of  
11 causing physical injury that the Defendant used as a  
12 weapon or with any object used or fashioned in a manner  
13 to lead Talisha Sams Dowe to reasonably believe that it  
14 was a weapon.

15 That the alleged sexual act occurred under  
16 circumstances that also -- that also involved kidnapping  
17 which I will explain.

18 The elements of kidnapping as I said  
19 before are as follows. First, that the Defendant  
20 forcibly confined or imprisoned Talisha Sams Dowe against  
21 Talisha Sams Dowe's will. Second, that the Defendant did  
22 not have legal authority to confine Talisha Sams Dowe.  
23 Third, that while the Defendant was confining Talisha  
24 Sams Dowe he forcibly moved or caused Talisha Sams Dowe  
25 to be moved from one place to another for the purpose of

1 kidnapping.

2 If Talisha Sams Dowe was moved as part of  
3 a crime other than kidnapping this is not enough. In  
4 this case, for instance, you should consider whether  
5 Talisha Sams Dowe was moved for the purpose of kidnapping  
6 or as part of the crime of criminal sexual conduct.

7 In determining whether Talisha Sams Dowe  
8 was moved for the purpose of kidnapping you must consider  
9 how far Talisha Sams Dowe was moved and whether being  
10 moved added any greater danger of threat to Talisha Sams  
11 Dowe than the crime of criminal sexual conduct. Talisha  
12 Sams Dowe must have been moved for the purpose of  
13 kidnapping and this movement must have been independent  
14 of the other crimes.

15 Fourth, that the Defendant intended to  
16 kidnap Talisha Sams Dowe and, fifth, that the Defendant  
17 acted willfully and maliciously. This means that the  
18 Defendant knew that it was wrong to confine Talisha Sams  
19 Dowe and knew that he did not have the legal authority to  
20 do so.

21 To prove this charge it is not necessary  
22 that there be evidence other than the testimony of  
23 Talisha Sams Dowe if that testimony proves guilt beyond a  
24 reasonable doubt. To prove this charge the prosecutor  
25 does not have to show that Talisha Sams Dowe resisted the



1 Defendant.

2 The Defendant is charged with criminal  
3 sexual conduct in the first degree. The prosecutor must  
4 prove the alleged sexual act was accompanied by one of  
5 more aggravating circumstances as explained early in my  
6 instructions as to the kidnapping.

7 If you agree that all -- if you all agree  
8 that the Defendant committed the sexual acts alleged it  
9 is not necessary that you all agree on which of these  
10 aggravating circumstances accompanied the act as long as  
11 you all agree that the prosecutor has proved at least one  
12 of the circumstances beyond a reasonable doubt.

13 To prove this charge the prosecutor does  
14 not -- it is not necessary that the prosecutor prove --  
15 strike that. To prove this charge it is not necessary  
16 that there be evidence other than the testimony of  
17 Talisha Sams Dowe if that testimony proves beyond a  
18 reasonable doubt.

19 Now, ladies and gentlemen, if you want to  
20 communicate with me while you're in the jury room please  
21 have your foreperson write a note and give it to the  
22 bailiff. It is not proper for you to talk directly with  
23 the Judge, lawyers, court officers or other people  
24 involved in the case.

25 As you discuss the case you must not let

1 anyone, even me, know how your voting stands. Therefore,  
2 until you return with a unanimous verdict do not reveal  
3 this to anyone outside the jury room. If you want to  
4 look at any or all of the exhibits admitted just ask for  
5 them.

6 Every Defendant has the absolute right not  
7 to testify. When you decide the case you must not  
8 consider the fact that he did not testify. It must not  
9 effect your verdict in any way. When you go to the jury  
10 room you should first choose a foreperson. The  
11 foreperson should see to it that your discussions are  
12 carried on in a business like way and that everyone has a  
13 fair chance to be heard.

14 During your deliberations please turn off  
15 your cellphones or other communications equipment until  
16 we recess. A verdict in a criminal case must be  
17 unanimous. In order to return a verdict it is necessary  
18 that each of you agree on that verdict. In the jury room  
19 you will discuss this case among yourselves, but  
20 ultimately each of you will have to make up your own mind  
21 and any verdict must represent the individual considered  
22 judgment of each juror.

23 It is your duty as jurors to talk to each  
24 other and to make every reasonable effort to reach  
25 agreement. Express your opinions and the reasons for

1       them, but keep an open mind as you listen to your fellow  
2       jurors. Rethink your opinion and do not hesitate to  
3       change your mind if you decide you were wrong. Try your  
4       best to work out your differences. However, although you  
5       should try to reach an agreement none of you should give  
6       up your honest opinion about the case just because other  
7       jurors disagree with you or just for the sake of reaching  
8       a verdict. In the end you must vote -- in the end your  
9       vote must be your own and you must vote honestly and in  
10      good conscience.

11               In this case there's -- no, don't want to  
12      read that. If you want to communicate with me while  
13      you're in the jury room please have your foreperson write  
14      a note and give it to the bailiff. It is not proper for  
15      you to talk directly with the Judge, lawyer, court  
16      officer or other people involved in the case. As you  
17      discuss the case you must not let anyone, even me, know  
18      how your voting stands.

19               Okay. Ladies and gentlemen, a verdict  
20      form has been prepared for you. Strike that. You've  
21      heard testimony from witnesses who are police officers.  
22      That testimony is to be judged by the same standards you  
23      use to evaluate the testimony of any other witness.

24               Ladies and gentlemen, a verdict form has  
25      been prepared for you. It's the People of the State of

1 Michigan versus Arthur Jemison. Possible verdicts, you  
2 may return only one verdict on each counts. Mark only  
3 one box for each count. Count I, criminal sexual conduct  
4 first degree penis to genital opening. You have two  
5 choices, not guilty or guilty of criminal sexual conduct  
6 in the first degree.

7 Count II, criminal sexual conduct in the  
8 first degree, fellatio, not guilty or guilty of criminal  
9 sexual conduct in the first degree. You will be provided  
10 with a copy of these written instructions. I'm now going  
11 to strike two of you from the jury box because the jury  
12 consists of twelve. You ready?

13 COURT CLERK: Juror in seat number ten,  
14 Murillo.

15 THE COURT: Mr. Murillo, you may step  
16 down, sir. Come around this way, sir, and don't leave.  
17 We have something to give you.

18 COURT CLERK: Juror in seat number eleven,  
19 David Kelly.

20 THE COURT: Mr. Kelly, that's you. Thank  
21 you, very much. All right.

22 COURT CLERK: Ladies and gentlemen of the  
23 Jury, raise your right hands, please.

24 (12:30 P.M. the jury was sworn by the  
25 Court Clerk at as follows)

1 COURT CLERK: Do you solemnly swear or  
2 affirm that in this action now before the Court you will  
3 justly decide the questions submitted to you, and unless  
4 you are discharged by the Court from further deliberation  
5 you will render a true verdict and that you will render  
6 your verdict only on the evidence introduced and in  
7 accordance with the instructions of the Court? Say I  
8 will.

9 JURY (In unison): I will.

10 COURT CLERK: Thank you.

11 THE COURT: All right. Ladies and  
12 gentlemen of the Jury, would you go into the jury room,  
13 but do not start to -- go into the jury room, select a  
14 foreperson, but do not start deliberating until I tell  
15 you to, okay. All right. Take your pads with you now.

16 COURT CLERK: Officers, raise your right  
17 hand.

18 (12:30 P.M. the court officers were sworn  
19 In by the Court Clerk as follows)

20 COURT CLERK: Do you swear or affirm you  
21 will keep this jury in the manner and form as described  
22 by the laws of the state of Michigan, so help you God?

23 COURT OFFICER: Yes.

24 COURT OFFICER: Yes.

25 THE COURT: Okay.

1 (12:30 P.M. the jury left the courtroom)  
2 THE COURT: Okay. Any further objections  
3 or any further deletions or additions to the  
4 instructions?  
5 MR. GLENN: No, your Honor.  
6 MS. LOZEN: No, Judge.  
7 THE COURT: Okay. Now, it's twelve  
8 thirty. Should I tell 'em to go to lunch until one and  
9 then come back and start deliberating?  
10 MS. LOZEN: Yes.  
11 COURT OFFICER: Yes.  
12 THE COURT: Okay. So the police officer  
13 is saying yes, so we will do that. Okay. Miss Lozen and  
14 Mr. Glenn, I'm going to tell 'em to do not deliberate  
15 while they're out there to lunch.  
16 MS. LOZEN: Yes.  
17 THE COURT: But I'll just tell 'em from  
18 the door.  
19 (Whereupon the Judge is talking to the  
20 Jury at the jury room door)  
21 THE COURT: All right. Ladies and  
22 gentlemen of the Jury, I'm going to give you a copy of  
23 the jury instructions, okay, and if you've selected a  
24 foreperson -- look, are you ready to go to lunch? Ya'll  
25 don't want to go to lunch?

1 JUROR: We would like to deliberate an  
2 hour, start now.

3 THE COURT: It's up to you. They want to  
4 deliberate. All right. Okay. You can start your  
5 deliberations now, okay. If you reach a verdict or you  
6 want to communicate with us in any manner write a note,  
7 have the foreperson write a note, and knock on the door.  
8 Don't open the door on your own, all right. Okay.

9 (Whereupon the jury room door is shut)

10 THE COURT: Okay. If you all want to  
11 leave the exhibits on the table if they ask for them you  
12 don't have to be down here. I'll just hand them in to  
13 them, okay.

14 (12:35 P.M. recess taken)

15 (Whereupon other cases were heard)

16 (12:46 P.M. back on record)

17 THE COURT: Hopefully they'll hand me a  
18 note. Oh, they'd like to see all of the evidence.

19 MR. GLENN: I believe it's up there.

20 THE COURT: Phil.

21 COURT OFFICER: I got it.

22 (12:47 P.M. off record)

23 (2:50 P.M. back on record)

24 (2:50 P.M. the Judge is talking to the  
25 Jury at the jury room door)

1 THE COURT: Ladies and gentlemen, it's  
2 three o'clock. Aren't you all about ready to go? Okay.  
3 You have to come back tomorrow.

4 JUROR: Tomorrow?

5 THE COURT: Oh, yeah. Oh, yeah. Well  
6 remember now, tomorrow Judge Boykin is out sick. He'll  
7 be back so if you deliberate until Tuesday he'll be here,  
8 but anyway, you're going to have to come back tomorrow,  
9 but if you all want to come in at nine thirty tomorrow?  
10 Would you prefer to come in at nine thirty?

11 Let me tell you this. Don't discuss the  
12 case in any manner even among yourselves now, okay,  
13 because you're not doing your deliberations, okay, and  
14 when you come in tomorrow we have a Friday docket so  
15 don't come in until the deputies let you in, okay, cause  
16 I don't want you to walk in and I'm doing something else,  
17 okay.

18 Nine thirty and then you'll deliberate  
19 tomorrow, okay. All right. Leave your pads and  
20 everything in there, okay. All right.

21 (2:52 P.M. the jury left for the day)

22 (2:52 P.M. proceedings concluded)

23 \* \* \*

24

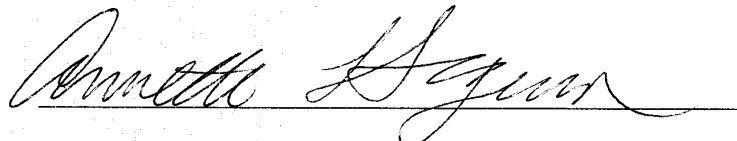
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C E R T I F I C A T E

STATE OF MICHIGAN) SS  
COUNTY OF WAYNE )

I certify that this transcript, consisting of 130 pages, is a complete, true and correct transcript, to the best of my ability, of the proceedings and testimony taken in this case by Brion Coury, reporter of record, Official Court Reporter, CSR/CSMR/CER-0038, on May 26, 2016.



BRION COURY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribe by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

Date: November 21, 2016

Trial, 5-27-16, 829a

**Trial, 5-27-16**

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STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION

**COPY**

THE PEOPLE OF THE STATE OF MICHIGAN,  
vs.  
ARTHUR LAROME JEMISON,  
Defendant.  
\_\_\_\_\_/

File No. 15-010216  
Jury Trial

PROCEEDINGS TAKEN in the  
above-entitled cause, before the HONORABLE LAWRENCE S.  
TALON, Judge of the 3rd Judicial Circuit Court, City  
of Detroit, at Frank Murphy Hall of Justice, Courtroom  
601, Detroit, Michigan, on May 27, 2016.

APPEARANCES:

LUTHER GLENN, Assistant Wayne County  
Prosecutor, appearing on behalf of the  
People.

LISA LOZEN, Attorney-at-Law, appearing  
on behalf of the Defendant.

\* \* \*

BRION CORY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribed by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

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T A B L E       O F       C O N T E N T S

Witnesses       -       None.

1  
2 May 27, 2016

3 Detroit, Michigan

4 8:25 A.M.

5 \* \* \*

6 COURT CLERK: This is Case Number  
7 15-10216, People of the State of Michigan versus Arthur  
8 Jemison. This matter is before the Court today for  
9 continuation of a jury trial.

10 THE COURT: Okay. Are we able to get  
11 transcripts of the three sisters' testimony? We meant to  
12 ask for it last night. What I'm going to tell 'em is  
13 that they can get it, but it's going to be like Wednesday  
14 before they can get it cause we're getting up on a  
15 holiday.

16 MR. GLENN: Is it possible to have a  
17 playback?

18 THE COURT: No. No. What I will tell  
19 them is that just what I told you, but I'm going to say  
20 that they should rely on their collective memory as to  
21 what the testimony is.

22 MR. GLENN: But you will tell them that a  
23 transcript should be available, but not before Wednesday?

24 THE COURT: Right, so hopefully that  
25 will --

1 MS. LOZEN: Judge, Lisa Lozen for the  
2 People. That's fine as well.

3 THE COURT: Okay. I'll just tell 'em  
4 through the door, okay.

5 (Whereupon the Judge is talking to the  
6 Jury at the jury room door)

7 THE COURT: Ladies and gentlemen of the  
8 Jury, you asked in your note, are we able to get  
9 transcripts of the three sisters'? We meant to ask last  
10 night. You can get it, but it will be Wednesday before  
11 you can get it because what he types down is not what  
12 you're going to get cause he would have to transcribe it.

13 What we ask of jurors in these cases is  
14 that you rely on your collective memory as to what the  
15 testimony is and that's why it's twelve of you --

16 COURT CLERK: Judge -- Judge, there's some  
17 more jurors.

18 THE COURT: Oh, I didn't realize that.

19 (Whereupon the rest of the jury panel  
20 Entered the jury room from the hallway)

21 THE COURT: Okay. Okay. All of you are  
22 here now?

23 JURY (In unison): Yes.

24 THE COURT: Is it all of you?

25 JURORS: It's all of us.

1 THE COURT: Okay. Let me repeat what I  
2 said. We received a note from you this morning  
3 indicating that you would like to receive the testimony  
4 of the three sisters' who testified.

5 If I can get it to you it would be next  
6 Wednesday before I can get it to you because the Court  
7 Reporter does it in some language that I don't even  
8 understand, so what we ask of you is, is that you use  
9 your collective memories to try to reflect on what the  
10 testimony was. That's why there's twelve of you, okay.  
11 All right. Go back to your deliberations.

12 (Whereupon the jury room door was shut)

13 THE COURT: Okay. All right.

14 (9:36 A.M. recess taken)

15 (Whereupon other cases were heard)

16 (10:20 A.M. back on record)

17 THE COURT: Okay. We're back on the  
18 record in the case of the People of the State of Michigan  
19 versus Mr. Arthur Larome Jemison. I received a note from  
20 them, can we see the police report statement Talisha gave  
21 on 9-14-96? I think that's the same statement that we  
22 had on that the woman wanted to know why you all didn't  
23 introduce the statement into evidence.

24 MR. GLENN: Right.

25 THE COURT: And we discussed it and said

1           that we would not answer the question.

2                   MR. GLENN: Right.

3                   THE COURT: Because there might be  
4 something in that report that might be hearsay in the  
5 report so you lawyers are allowed to just bring up what  
6 they want in the report that they think are admissible.  
7 Can I tell 'em that?

8                   MS. LOZEN: Judge, yeah, if you want to  
9 explain why it was not admitted --

10                  THE COURT: Yeah.

11                  MS. LOZEN: -- that basically it was not  
12 admitted and why and that's a basis of a summary of why  
13 it was not admitted. That's not the exact reason.

14                  MR. GLENN: My response is, you can't get  
15 it because it wasn't introduced into evidence.

16                  MS. LOZEN: I think that's fair.

17                  THE COURT: Okay.

18                  MR. GLENN: It wasn't admitted into  
19 evidence.

20                  THE COURT: Okay. The only reason I was  
21 saying that that was a problem cause of that woman that  
22 wrote that note up here earlier.

23                  MR. GLENN: Yeah, I mean, they know  
24 there's some discussion about the note. It wasn't  
25 admitted into evidence.



1 THE COURT: The other part of the question  
2 is, was Talisha able to review any and all reports and  
3 documents before the trial? Basically there was no  
4 testimony as to whether she did or did not so we can't  
5 answer that question for them, okay.

6 MR. GLENN: Right.

7 THE COURT: Miss Lozen?

8 MS. LOZEN: That's fair, Judge.

9 THE COURT: Okay. Now this, without  
10 Talisha's involvement I don't -- I'll ask 'em what that's  
11 about.

12 MS. LOZEN: If you want them to clarify or  
13 send another note if they want to perhaps elaborate.

14 THE COURT: Well, it looks like somebody  
15 just added that part.

16 MS. LOZEN: Yeah, but if they have a issue  
17 or a question that they have relating to that third point  
18 then they should elaborate or write another note.

19 THE COURT: Okay. We'll do it again from  
20 a jury note. Brion, are you on the record?

21 COURT REPORTER: Yes.

22 THE COURT: I'm going to say to 'em the  
23 statement was not introduced into evidence so they have  
24 to rely on their collective memories as to what the  
25 testimony was as to Talisha.

1 MS. LOZEN: That's correct.

2 THE COURT: And also as to question number  
3 two, there was no testimony as to whether she reviewed  
4 the records or not so we don't know.

5 MR. GLENN: Correct.

6 THE COURT: Okay. All right. All right.  
7 (Whereupon the jury is talking to the  
8 Jury at the jury room door)

9 THE COURT: All right. Ladies and  
10 gentlemen, let me read the note to you cause we have to  
11 keep everything on the record out here. Can we see the  
12 police report statement Talisha gave on 9-14-96?

13 They were not introduced into evidence so  
14 you can't see it, okay. You can only see what's  
15 introduced into evidence. The second part of the  
16 question was, was Talisha able to review any or all  
17 reports and documents before the trial? There was no  
18 testimony as to whether she did or did not so we can't  
19 answer that question, okay.

20 Okay. Now, somebody wrote on the bottom  
21 of this slip, what was Talisha's involvement. You have  
22 to write the question out. I have to keep this.

23 (Whereupon the jury room door was closed)

24 (Off record)

25 (Back on record)

1 THE COURT: Oh, Lord, now this one,  
2 without Talisha's involvement would the case have still  
3 been brought against Mr. Jemison? They're all throwing a  
4 tangent in there. Obviously that's a question that I'm  
5 not able to answer -- we're not able to answer.

6 MS. LOZEN: We're not able to answer.

7 THE COURT: Right. If there's no  
8 objections I will tell them that the case is the People  
9 of the State of Michigan versus Mr. Jemison and not  
10 Talisha Sams Dowe versus Mr. Jemison. So the case is  
11 brought on behalf of the People and not her.

12 MR. GLENN: Right.

13 MS. LOZEN: That's fair.

14 MR. GLENN: Okay. That's fair.

15 THE COURT: Okay.

16 (Whereupon the Judge is talking to the  
17 Jury at the jury room door)

18 THE COURT: Ladies and gentlemen, in a  
19 criminal case it's the case of the People of the State of  
20 Michigan versus Mr. Jemison. It's not Talisha Dowe like  
21 in a civil case. So her involvement is not an issue for  
22 you, okay. All right.

23 (Whereupon the jury room door was closed)

24 (10:28 A.M. recess taken)

25 (12:15 P.M. back on record)

1 (Whereupon the Judge is talking to the  
2 Jury at the jury room door)  
3 THE COURT: All right. Ladies and  
4 gentlemen, I'm going to let you go to lunch now and you  
5 have to come back at one thirty, okay. As to your second  
6 question I'll answer that when you get back, okay. Do  
7 not discuss the case while you're at lunch. One thirty.  
8 One thirty. And even when you get back don't start  
9 discussing the case until I tell you to, okay. I'll  
10 answer the second part of your question when you get  
11 back, okay.  
12 JUROR: Thank you, your Honor.  
13 (12:15 P.M. recess taken)  
14 (1:35 P.M. back on record)  
15 MS. LOZEN: Are there all twelve of them  
16 in?  
17 THE COURT: Right.  
18 MS. LOZEN: Okay.  
19 (Whereupon the Judge is talking to the  
20 Jury at the jury room door)  
21 THE COURT: Okay. The last question you  
22 all asked me, is there a time limit for the number of  
23 days of deliberations? The answer is an emphatic, no.  
24 You deliberate until you get a verdict, okay. All right.  
25 JUROR: Thank you, sir.

1 THE COURT: Okay. Thank you.  
2 (Whereupon the jury room door was closed)  
3 MS. LOZEN: Okay. Judge, then we'll be  
4 back.  
5 THE COURT: Okay. We got your number. I  
6 don't blame you.  
7 (1:35 P.M. recess taken)  
8 (2:40 P.M. back on record)  
9 THE COURT: The note says, can we please  
10 ask for a dictionary?  
11 (Whereupon the Judge is talking to the  
12 Jury at the jury room door)  
13 THE COURT: Ladies and gentlemen, you  
14 cannot have any outside information submitted to you  
15 while we're in trial. You can't have a dictionary.  
16 Remember I told you, you couldn't use your phones or  
17 anything, so you can't. You can only consider what was  
18 admitted in the trial, okay.  
19 JUROR: Yes, sir.  
20 THE COURT: All right. Thank you.  
21 JUROR: Thank you.  
22 (Whereupon the jury room door was closed)  
23 (2:41 P.M. recess taken)  
24 (2:58 P.M. back on record)  
25 MR. GLENN: Judge, can my client get a

1 head's start so he can get out of here or do you want him  
2 to wait?

3 THE COURT: I don't care if she don't  
4 care.

5 MS. LOZEN: It's up to you, Judge.

6 THE COURT: Yeah, let him go.

7 MR. GLENN: Okay.

8 (Whereupon the Judge is talking to the  
9 Jury at the jury room door)

10 THE COURT: Ladies and gentlemen, I'm  
11 going to have to bring you back Tuesday. I have no  
12 choice. All right. Nine fifteen -- nine thirty Tuesday  
13 morning, okay. Don't discuss the case in any manner,  
14 okay. Leave your stuff all in the jury room just like it  
15 is, okay. All right. We'll see you Tuesday.

16 JUROR: It's at nine thirty?

17 THE COURT: Nine thirty. Have a good  
18 weekend. Enjoy your weekend.

19 (2:59 P.M. the jury passed from the jury.  
20 Room to hallway to leave for the day)

21 THE COURT: Okay. We're adjourned.

22 (3:00 P.M. proceedings concluded)

23 \* \* \*

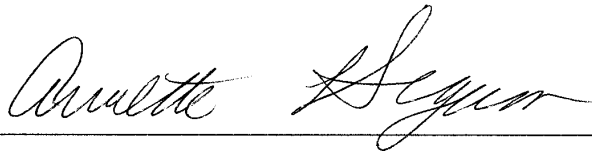
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C E R T I F I C A T E

STATE OF MICHIGAN) SS  
COUNTY OF WAYNE )

I certify that this transcript, consisting of 13 pages, is a complete, true and correct transcript, to the best of my ability, of the proceedings and testimony taken in this case by Brion Coury, reporter of record, Official Court Reporter, CSR/CSMR/CER-0038, on May 27, 2016.



BRION COURY, CSR/CSMR/CER-0038  
Certified Court Reporter  
Reporter of Record

Transcribe by:  
ANNETTE L. SEGUIN, RPR/CSR-2184  
Official Court Reporter

Date: November 8, 2016

Trial, 5-31-16, 843a

**Trial, 5-31-16**



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STATE OF MICHIGAN  
THIRD JUDICIAL CIRCUIT COURT - CRIMINAL DIVISION  
HHJ  
16 OCT -7 PM 2:53

THE PEOPLE OF THE STATE OF MICHIGAN

-vs-

COURT REPORTING

ARTHUR LAROME JEMISON,

Case No. 15-10216

Defendant.

COPY

JURY TRIAL

Proceedings had and testimony taken before the  
Honorable DALTON A. ROBERSON, Visiting Judge of the Third  
Judicial Circuit Court, Criminal Division, at Room 603,  
Frank Murphy Hall of Justice, Detroit, Michigan, on Tuesday,  
May 31, 2016, commencing at or about the hour of 9:10 A.M.

APPEARANCES:

LISA LOZEN

Assistant Prosecuting Attorney

Appearing on behalf of the

People of the State of Michigan

LUTHER GLENN

Appearing on behalf of Defendant

Regenia S. Veasy, C.S.R. (R-2350)

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OCT 19 2016

APPELLATE DEFENDER OFFICE

Processed  
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10/12/16  
Clerk

1 Detroit, Michigan

2 Tuesday, May 31, 2016

3 About 9:10 A.M.

4 --- --- ---

5 (At about 9:10 A.M. - jury returned;  
6 deliberations continued.)

7 (At about 1:10 P.M. - proceedings  
8 continued.)

9 THE COURT: Back on the record in Case Number  
10 15-10216, People of the State of Michigan versus Arthur  
11 Jemison.

12 MR. GLENN: Luther Glenn, for Mr. Jemison.

13 MS. LOZEN: Lisa Lozen, for the People.

14 THE COURT: Mr. Glenn has handed me a copy of the  
15 Court Rule 2.513, which provides -- When it appears  
16 that a deliberating jury has reached an impasse, or is  
17 otherwise in need of assistance, the Court may invite  
18 the jurors to list the issues that divide or confuse  
19 them in the event that the judge can be of assistance in  
20 clarifying or amplifying the final instructions.

21 What I had thought about saying to them or asking  
22 the Foreperson is, I know that you all have been in  
23 there -- they have been in there -- they  
24 deliberated about three hours on Thursday.

25 MS. LOZEN: Correct.

1 THE COURT: About six hours on Friday.

2 MS. LOZEN: Yes.

3 THE COURT: And about three hours today.

4 So, they have been in there almost as long as the trial  
5 lasted. So, I was going to say to them -- I was  
6 going to ask the Foreperson are there any issues that  
7 they have not resolved which they feel that they could  
8 resolve if ordered to reach a verdict, and see what the  
9 answer would be.

10 MS. LOZEN: And, perhaps, don't have them say in  
11 open court, but to tell them to write a letter or a note  
12 and then submit it to us for us.

13 THE COURT: Well, do you want me to bring them  
14 in, ask the question, and then tell them to write the  
15 note?

16 MS. LOZEN: Correct.

17 THE COURT: Okay.

18 MS. LOZEN: To advise them that if there's any  
19 issues that we could clarify for them, please write a  
20 note.

21 MR. GLENN: Now, there was an issue about them  
22 wanting transcripts.

23 THE COURT: Well, we're not going back over what  
24 we've already went over.

25 MR. GLENN: Okay.

1 THE COURT: Because I told them the transcript --  
2 well, they can go home and we can bring them back down  
3 here.

4 MR. GLENN: Well, we said they would be  
5 available on Wednesday.

6 THE COURT: But, we didn't order them, so they  
7 are not available on Wednesday.

8 MR. GLENN: All right.

9 THE COURT: I will do that. I'll bring them  
10 out and ask them that, and then tell them to go in and  
11 have the Foreperson list things that they might need  
12 help with.

13 MR. GLENN: Okay.

14 THE COURT: And, if we can help them, we will,  
15 otherwise, we can't.

16 MS. LOZEN: I don't think that has any element of  
17 coercion at all, so we're not telling them -- we're  
18 not putting a time-frame on them or not informing them  
19 of what they must do, rather, just inviting them to list  
20 questions.

21 THE COURT: Okay.

22 Bring them out.

23 THE OFFICER: All rise.

24 (At about 1:10 P.M. - jury returned.)

25 THE OFFICER: You can be seated.

1 THE COURT: Ladies and gentlemen of the jury, we  
2 brought you out because you've been deliberating for  
3 about twenty-four hours now, or maybe between eighteen  
4 and twenty-four hours, and we brought you out to inquire  
5 of you if there is any issue that you feel that further  
6 deliberations will help you to resolve. If there are  
7 issues which you might want us to explain to you  
8 further, then I would ask the Foreperson to go in there  
9 and write a note to us.

10 As to the first part of the question, do you think  
11 that further deliberations would help you resolve some  
12 of the issues?

13 THE FOREPERSON: (Indicating.)

14 THE COURT: Stand up, sir. Give us your name?

15 THE FOREPERSON: Sean Bono.

16 I do believe it would help if we deliberated  
17 further.

18 THE COURT: Okay. There are any issues which you  
19 think we might be able to help you resolve?

20 THE FOREPERSON: There might be a question or  
21 two, yes, absolutely.

22 THE COURT: All right. Go back in and write the  
23 question for us.

24 Are all of you all in agreement with that?

25 THE JURY: Yes.

1 THE COURT: Okay. Well, good then.

2 THE OFFICER: All rise.

3 (At about 1:15 P.M. - jury excused;  
4 deliberations continued.)

5 THE OFFICER: You may be seated.

6 THE COURT: Okay. We'll wait for the list.

7 MR. GLENN: Okay.

8 (At about 1:20 P.M. - recess held.)

9 (At about 2:20 P.M. - proceedings  
10 continued.)

11 THE COURT: Bring the jury out.

12 THE OFFICER: All rise.

13 (At about 2:20 P.M. - jury returned.)

14 THE OFFICER: You may be seated.

15 THE COURT: We're back on the record in the case  
16 of the People of the State of Michigan versus Arthur  
17 Jemison.

18 Ladies and gentlemen of the jury, I've received a  
19 note from you saying that you have reached a verdict.

20 If so, who shall speak for you?

21 THE FOREPERSON: Yes.

22 THE COURT: That would be the foreperson.

23 Stand up and give us your name, sir?

24 THE FOREPERSON: Sean Bono.

25 THE COURT: Okay. She'll read it off of her

2

1 verdict form, and you answer, okay?

2 THE FOREPERSON: Yes.

3 THE CLERK: How do you find the Defendant, Arthur  
4 Jemison, as to Count I.

5 THE FOREPERSON: Guilty of criminal sexual  
6 conduct first degree.

7 THE CLERK: As to Count II?

8 THE FOREPERSON: Not guilty.

9 THE CLERK: Stand and raise your right hand.

10 Listen to your verdict as recorded by the Court:  
11 You say upon your oath that you find the Defendant,  
12 Arthur Jemison, as to Count I, guilty of criminal sexual  
13 conduct in the first degree, and as to Count II, not  
14 guilty of criminal sexual conduct in the first degree.

15 So say you, Mr. Foreman?

16 THE FOREPERSON: Yes.

17 THE COURT: So, say you all, members of the  
18 jury.

19 THE JURY: We do.

20 THE COURT: All right. You may be seated.  
21 Would either of you like the jury polled?

22 MR. GLENN: Yes, Your Honor.

23 THE COURT: Ladies and gentlemen of the jury, I  
24 have to poll you now individually.

25 Juror number 1, is that and was that your verdict?

2

1

JUROR NO. 1: Yes.

2

THE COURT: Juror number 2, is that and was that  
your verdict?

4

JUROR NO. 2: Yes.

5

THE COURT: Juror Number 3, is that and was that  
your verdict?

7

JUROR NO. 3: Yes.

8

THE COURT: Jury number 4, is that and was that  
your verdict?

9

10

JUROR NO. 4: Yes.

11

THE COURT: Juror number 5, is that and was that  
your verdict?

12

13

JUROR NO. 5: Yes.

14

THE COURT: Juror number 6, the Foreperson, is  
that and was that your verdict?

15

16

THE FOREPERSON: Yes, Your Honor.

17

THE COURT: Juror number 7, is that and was that  
your verdict?

18

19

JUROR NO. 7: Yes.

20

THE COURT: Juror in 8, is that and was that  
your verdict?

21

22

JUROR NO. 8: Yes

23

THE COURT: Juror number 9, is that and was that  
your verdict?

24

25

JUROR NO. 9: Yes.



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THE COURT: Juror number 10, is that and was that  
your verdict?

2

3

JUROR NO. 10: Yes.

4

THE COURT: Juror number 11, is that and was that  
your verdict?

5

6

JUROR NO. 11: Yes.

7

THE COURT: Juror number 12, is that and was that  
your verdict?

8

9

JUROR NO. 12: Yes.

10

THE COURT: Okay. Mr. Glenn and Miss Lozen, the  
jury has been polled.

11

12

Ladies and gentlemen of the jury, would you go  
into the jury room, and I will be with you in a moment,  
okay?

13

14

15

THE OFFICER: All rise.

16

(At about 2:30 P.M. - jury excused.)

17

THE OFFICER: You may be seated.

18

THE COURT: Mr. Glenn, your client has been found  
guilty of criminal sexual conduct first degree, and  
that's a sentence that carries a maximum punishment of  
life imprisonment.

19

20

21

22

What do you have to say about his bond?

23

MR. GLENN: He has come to court on every  
occasion. He's been out on a tether. I would ask the  
Court to continue his bond.

24

25

2

1

THE COURT: Miss Lozen?

2

MS. LOZEN: Judge, I'd ask that he be remanded.

3

THE COURT: Is he working, or what is he doing  
with himself?

5

MS. GLENN: He's working, Your Honor.

6

THE COURT: Where?

7

DEFENDANT JEMISON: Jay's Flower Shop, 10500  
Mack Avenue.

9

THE COURT: What kind of family do you have?

10

DEFENDANT JEMISON: My brother.

11

THE COURT: Are you married?

12

DEFENDANT JEMISON: I have children.

13

THE COURT: That doesn't say much for you.

14

No, Mr. Glenn. I'm going to remand him to the  
custody of the Wayne County Sheriff to await sentence.

15

16

THE CLERK: The sentencing date will be June  
16th.

17

18

THE COURT: Okay.

19

MR. GLENN: I will be out of town on the 16th. I  
won't be back until the Monday, the 20th.

20

21

THE CLERK: June 20th.

22

MS. LOZEN: That's fine, Judge.

23

THE COURT: Okay.

24

(At about 2:30 P.M. - proceedings

25

concluded.)

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CERTIFICATION OF COURT REPORTER

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STATE OF MICHIGAN )

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COUNTY OF WAYNE )

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I, REGENIA S. VEASY, CSR-2350, an Official Court Reporter in and for the Third Judicial Circuit Court, Criminal Division, State of Michigan, do hereby certify that the foregoing pages 1 through 11, inclusive, were prepared by me in the matter of ARTHUR LAROME JEMISON, Case Number 15-10216, on Friday, May 20, 2016, and was reduced to typewritten form by means of Computer-assisted Transcription, and comprise a full, true and accurate transcript of the proceedings had in the above-entitled cause.

*Regenia S. Veasy*

Official Court Reporter

*OCT. 7, 2016*

Date

Sentence, 6-22-16, 855a

**Sentence, 6-22-16**

**COPY**

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE  
CRIMINAL DIVISION

COURT REPORTING

10 OCT 17 PM 2:22

THE PEOPLE OF THE STATE OF MICHIGAN )  
 )  
 )  
 vs. )  
 )  
 ARTHUR JEMISON, )  
 )  
 Defendant. )

Case No. 15-10216-01  
(SENTENCE)

Proceedings had in the above-entitled cause  
before the **HONORABLE DALTON ROBERSON**, visiting Judge of the  
Circuit Court for the County of Wayne, Criminal Division, at  
the Frank Murphy Hall of Justice, 1441 St. Antoine, Detroit,  
Michigan, on **JUNE 22, 2016**.

APPEARANCES:

**MS. LISA LOZEN - P74180**  
Assistant Prosecuting Attorney  
Appearing on behalf of the People.

**MR. LUTHER GLENN - P38683**  
Attorney-at-Law  
Appearing on behalf of the Defendant.

- - -  
Carolyn Howard, CSMR-4184  
Official Court Reporter

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OCT 27 2016

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APPELLATE DEFENDER OFFICE

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<u>EXHIBITS:</u>	<u>MARKED</u> <u>ADMITTED</u>

DETROIT, MICHIGAN

JUNE 22, 2016

SENTENCE

10:36 A.M.

\* \* \*

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6  
7 THE COURT: This is Case Number 15-010216,  
8 The People of the State of Michigan versus Arthur  
9 Larome Jemison.

10 Mr. Jemison was convicted of criminal sexual  
11 conduct in the first degree by a jury and he's here  
12 today for the purpose of sentencing.

13 Counsels?

14 MS. LOZEN: Good morning Your Honor, Lisa  
15 Lozen for The People.

16 MR. GLENN: Good morning Your Honor, Luther  
17 Glenn appearing on behalf of Mr. Jemison.

18 THE COURT: Okay.

19 Has each side had an opportunity to review  
20 the sentencing guidelines?

21 MR. GLENN: Yes, Your Honor.

22 THE COURT: Are there corrections, deletions  
23 or additions to them by either side?

24 MR. GLENN: Yes, Your Honor.

25 THE COURT: Go ahead.

1 MS. LOZEN: Judge, I would note for the  
2 record that we are using the judicial guidelines. The  
3 current guidelines came into effect in 1999 and so as  
4 such we have to use the old guidelines, which I've  
5 provided a copy to Your Honor, as well as the defense  
6 attorney.

7 THE COURT: Okay. Alright.

8 Okay, Mr. Glenn?

9 MR. GLENN: Alright.

10 With respect to OV2 --

11 THE COURT: I've got to find that -- I've  
12 got to find the slip in the presentence report, okay?

13 MR. GLENN: Alright. Now the --

14 THE COURT: Okay. OV2 --

15 MR. GLENN: It's kind of confusing because  
16 the prosecutor has a memorandum and her numbers are not  
17 synced up with the -- I'm used a sheet that's provided.  
18 Okay. Alright.

19 THE COURT: OV2 you've got 5. What's that  
20 for?

21 MR. GLENN: Well OV2 is now OV3.

22 MS. LOZEN: Well Judge, do we want to go  
23 through this one by one starting with the PRVs?

24 THE COURT: I don't care which way you go  
25 through them. Let's start with the PRVs just because



1           they're at the top.

2                   MS. LOZEN:   Judge, I have PRV1 scored at  
3           zero; that's for high-severity convictions; that's  
4           zero.

5                   I have PRV2 scored at 10 for one prior low-  
6           severity conviction.

7                   THE COURT:   Well it says here, 5.

8                   MS. LOZEN:   Judge, that's because again, the  
9           presentence division scored them using the new  
10          guidelines --

11                   THE COURT:   Okay.

12                   MS. LOZEN:   -- and we have to use the old  
13          guidelines.

14                   THE COURT:   So PRV5 -- to get 10 he has four  
15          or more misdemeanor convictions?

16                   MS. LOZEN:   No Judge, I believe we're at  
17          PRV2.

18                   THE COURT:   Oh, PRV2.  I'm sorry,  I'm  
19          looking at 5.

20                   PRV2 40 or more -- PRV2 he had one prior low-  
21          severity felony conviction.  Do you have any argument  
22          with that?

23                   MR. GLENN:   No, Your Honor.

24                   THE COURT:   Okay, so he gets 10 for that.

25                   MR. GLENN:   Right.

1 MS. LOZEN: And then for PRV3, 4 and 5 I  
2 have him at zero.

3 THE COURT: Okay.

4 MS. LOZEN: And then PRV6 I have him at 15  
5 points.

6 THE COURT: Well they have him at 10.

7 MS. LOZEN: And again if you look at PRV6  
8 using the judicial guidelines --

9 THE COURT: Okay.

10 MS. LOZEN: -- they indicate a post-  
11 conviction relationship exists.

12 And again, he was on probation when the  
13 offense occurred.

14 THE COURT: Mr. Glenn, he was on probation,  
15 yes.

16 MR. GLENN: Yes, okay.

17 THE COURT: So he gets 15 for that.

18 MR. GLENN: Fifteen, right.

19 THE COURT: Okay.

20 MS. LOZEN: And then Judge, PRV7, subsequent  
21 or concurrent felony convictions --

22 THE COURT: Ah-huh.

23 MS. LOZEN: -- I'm scoring him at 20 points  
24 for two or more subsequent or concurrent felony  
25 convictions.

1 THE COURT: What's the concurrent felony  
2 conviction?

3 MS. LOZEN: The subsequent convictions Judge  
4 -- he's been subsequently convicted of assault with  
5 intent to commit great bodily harm.

6 THE COURT: This was after this offense?

7 MS. LOZEN: That's correct, Judge, as well  
8 as delivery/manufacture of controlled substances less  
9 than 50 grams and also delivery/manufacture of  
10 controlled substances 50 to 499 grams.

11 THE COURT: So he gets 25 for that?

12 MS. LOZEN: He gets 20, Judge.

13 MR. GLENN: Twenty.

14 THE COURT: Okay. So his total score or PRV  
15 should be 10, 25, 45, is that correct?

16 MR. GLENN: Correct.

17 THE COURT: Okay. That changes him to what?

18 MS. LOZEN: It becomes --

19 THE COURT: PRV Level?

20 MR. GLENN: It's a C-Grid on the old one.

21 MS. LOZEN: That's correct, a C-Grid on the  
22 old -- on the judicial guidelines.

23 THE COURT: Okay. Alright.

24 Now let's go to Offense Variables. OV1?

25 MS. LOZEN: I have them scored at 15 points.

1 MR. GLENN: Yes.

2 MS. LOZEN: And the OV2 I've scored him at  
3 25 points.

4 MR. GLENN: And I would object to that for  
5 OV2, because that should be scored at 10 points.

6 My argument is that it's 10 points if bodily  
7 injury requiring medical treatment occurred to the  
8 victim.

9 THE COURT: The one I'm looking at doesn't  
10 even have 10 points on it. It's got 100, 50, 25 and  
11 zero.

12 MR. GLENN: Well the thing is, I'm looking  
13 at the old grid, you're looking at the new grid.

14 THE COURT: This is the new grid?

15 MS. LOZEN: Judge, what happened was OV2 is  
16 now OV3 and currently OV3 permits 10 points to be  
17 scored, however we have to stay consistent using the  
18 old grid.

19 And again, the old grid which Your Honor has  
20 correctly indicated, requires a scoring of 25 points.

21 Attached to my memo I did include -- it's a  
22 non-published case, but I would suggest that it's  
23 certainly persuasive, which indicates that if a victim  
24 is sexually assaulted and then goes to the hospital and  
25 has to receive a rape kit, including prophylactic

1 medication for STDs and birth control -- which again,  
2 if Your Honor recalls, there was a doctor from the  
3 emergency room --

4 THE COURT: I recall all of that.

5 MS. LOZEN: -- who did in fact testify and  
6 we admitted lab reports that indicated that it  
7 occurred.

8 And again, I'm citing People versus Atchison,  
9 A-T-C-H-I-S-O-N, which is Docket Number 291671. It's a  
10 2010 case, which indicates it's permissible to score  
11 for bodily injury. And again --

12 MR. GLENN: Let me see the case; 2010,  
13 that's going under the new guidelines. You can't use a  
14 new case. You have to use the law back --

15 THE COURT: You've got to use the law --

16 MS. LOZEN: Judge, but as it relates to case  
17 law, case law can be applied retroactively, it's not an  
18 expose facto issue. I'm not talking about the statute,  
19 I'm talking about case law. And again --

20 THE COURT: Let me see the case.

21 MS. LOZEN: It's attached to your memo,  
22 Judge, if you flip to the end.

23 And again, further Judge, as you've seen --

24 THE COURT: Well wait a minute, I don't have  
25 a memo.

1                   You presented a memo earlier in this  
2 proceeding?

3                   MS. LOZEN:   Yeah, I presented guidelines and  
4 a memo.

5                   I do have a copy of the case. It does have  
6 some highlights on it, but it's essentially citing the  
7 portions that I've already read into the record, so if  
8 you'd like, I can present you a copy of the case.

9                   MR. GLENN:   The point that I want to bring  
10 out Your Honor, is not the fact that it's medical  
11 treatment, it's 25 points on the --

12                  THE COURT:   Let me see the case, please, I  
13 can read it.

14                  "Defendant argues that the trial court should  
15 not have scored OV3 at 10 points. MCL 777.33  
16 provides that 10 points should be scored for  
17 OV3 if the victim sustained 'bodily injury  
18 requiring medical treatment.' The statute  
19 specifically provides that, used in this  
20 section, 'requiring medical treatment' refers  
21 to the necessity for treatment and not that  
22 the victim's success in obtaining treatment.  
23 Here evidence showed that the medical staff  
24 at Oaklawn Hospital gave the victim pills to  
25 prevent or diminish the impact of sexually

1 transmitted diseases that were or may have  
2 been introduced during the sexual assault.  
3 In light of the sexual assault and the  
4 reality that the prophylactic treatment of  
5 STDs through medicine was considered  
6 necessary by the hospital, we hold that the  
7 trial court correctly scored 10 points for  
8 OV3."

9 MR. GLENN: Your Honor, I'm not arguing for  
10 the 10 points, he wants 25.

11 THE COURT: Okay, where do you see the 25 in  
12 there, Counsel?

13 MS. LOZEN: And Judge, again when you're  
14 looking at the judicial guidelines, they require  
15 scoring 25 points.

16 And again, if you look back and forth between  
17 the old guidelines and the new guidelines --

18 THE COURT: See that's the trouble with  
19 having --

20 MS. LOZEN: I agree. I know, Judge. But  
21 there are places in the old guidelines where I'm not  
22 getting points; for example, in the PRVs. Then there  
23 are places where we do pick up points. And this is a  
24 situation where I did not get points on the PRVs.

25 And actually if we go -- if we continue to

1 look and we compare the two -- the old guidelines  
2 versus the new guidelines, I'm going to -- either there  
3 are places where I pick up points and where I lose  
4 points.

5 And so again, you have to take them as a  
6 whole. And when you're taking them as a whole, this is  
7 just one place where I'm going to get 25 points, but  
8 then further on down the road I will lose points  
9 because guidelines have been eliminated and moved  
10 around and such.

11 Because when the legislature in 1999 enacted  
12 the new guidelines, they again re-numbered them and  
13 added things, took things out, and so again, that's why  
14 we have to use this and that's where I get 25 points.

15 If you want, I can show you other locations  
16 in the guidelines where I'm in fact losing points.

17 THE COURT: Okay, let's put the guidelines  
18 in there and go through with the rest of it and we'll  
19 see how it works out.

20 MR. GLENN: Based on what we're talking  
21 about with OV2 --

22 THE COURT: OV3.

23 MR. GLENN: Well it's OV2 under the old  
24 guidelines, but it would be OV3 for the new guidelines.

25 MS. LOZEN: Which is exactly it. They



1 actually --

2 THE COURT: He was given 10 points --

3 MR. GLENN: Right.

4 THE COURT: -- and now you're asking for 25,  
5 is that correct?

6 MS. LOZEN: That's correct, so essentially -

7 -

8 THE COURT: I'll put 25 up there.

9 MR. GLENN: Well my objection is 25 points  
10 is only to be scored for OV2, now that's OV3. Only  
11 when the subject of terrorism -- bodily injury and  
12 terrorism. When it's just going to a hospital, it's  
13 the same bodily injury, it's 10 points, so it's  
14 properly scored. It's and/or terrorism you get 25  
15 points, that's where the old OV2, which is now OV3.

16 So I'd say that it's properly scored at 10  
17 points and not 25.

18 THE COURT: What do you say about that?

19 MS. LOZEN: Judge, if you look and you read  
20 it actually says, and/or, so I'm not required to show  
21 both, I'm only required to show one.

22 And so again, I've shown bodily injury, which  
23 I would again submit, Your Honor --

24 THE COURT: That's on this sheet?

25 MS. LOZEN: That's on this sheet, Judge, if

1 you look at Page 44.

2 THE COURT: That's OV3?

3 MS. LOZEN: OV2.

4 THE COURT: OV2.

5 OV2. Bodily injury and/or subjected to  
6 terrorism. Terrorism is conducted --

7 MS. LOZEN: Judge, I'm not arguing  
8 terrorism, I'm arguing bodily injury and it's an and/or  
9 situation, so I don't have to show both.

10 MR. GLENN: And it's clear that from the  
11 writing of the book, 10 points for medical treatment.

12 THE COURT: Well no, this says bodily injury  
13 or subject to terrorism.

14 MR. GLENN: Right.

15 THE COURT: You get 25 points.

16 MR. GLENN: And she went to the hospital,  
17 but she didn't have any bodily injuries.

18 THE COURT: Well but they said that you  
19 could -- the treatment -- bodily injury is a treatment  
20 and based on she got that STD treatment.

21 MR. GLENN: Now if she had a STD, yeah, I  
22 would say that that's bodily injury, but there's no  
23 evidence that she had STDs.

24 MS. LOZEN: And Judge the case law I think  
25 is clear that indicates just the receiving medical

1 treatment alone is sufficient.

2 The fact that you have to take an overall  
3 medication, which again the doctor on the stand  
4 testified overall essentially interrupts the female's  
5 menstrual cycle.

6 THE COURT: Yeah, Mr. Glenn, it says;  
7 defendant argues that the trial court should not have  
8 scored 10 points.

9 Now I'm skipping down. They cite the  
10 statute, 777.33. It says; here evidence showed that  
11 the medical staff at Oaklawn Hospital gave the victim  
12 pills to prevent or diminish the impact of sexually  
13 transmitted diseases that were or may have been  
14 introduced during the sexual assault. In light of the  
15 sexual assault itself and the reality that the  
16 prophylactic treatment of STDs through medication was  
17 considered necessary by the hospital, we hold that the  
18 trial court correctly scored the 10 points, which they  
19 now say is 25 points.

20 MR. GLENN: No, I -- I think that back then  
21 it was -- back then there was still the argument of  
22 whether or not it was 10 or 25.

23 I think he's arguing that he should have  
24 gotten zero points on that. I defendant said, I  
25 shouldn't have gotten any points and the court is

1 saying, no, it was properly scored at 10.

2 And they're saying because you went to the  
3 hospital and you received treatment, yeah, you were  
4 properly scored at 10. That's what I'm saying here.

5 Yeah, it's no argument that she went to the  
6 hospital. I'm not arguing that.

7 THE COURT: Right.

8 MR. GLENN: I say that the points that my  
9 client should be getting here is 10, not 25.

10 THE COURT: Because the medical treatment --

11 MR. GLENN: Because of the medical  
12 treatment, yes. I'm --

13 THE COURT: What have you got?

14 MS. LOZEN: My argument, Judge, is that the  
15 court in the Atchison case is defining what bodily  
16 injury is.

17 And then when you take the definition of  
18 bodily injury and you plug it into the old guidelines,  
19 which are the guidelines we're using, bodily injury is  
20 defined as receiving medical treatment for STDs and  
21 prophylaxis for birth control, and that's where 25  
22 points comes in at OV2.

23 THE COURT: Why?

24 MS. LOZEN: Because that's the author --  
25 that's how they wrote the rules, Judge, at the time.

1                   And again, when you're using that 2010 case  
2 is applying that, the definition of bodily injury to  
3 OV3, which is the new guidelines and --

4                   THE COURT:    So you're saying there is no  
5 more 10 under the new rules.

6                   MS. LOZEN:    That's correct -- well old  
7 rules, but the rules that apply to our case in our  
8 situation here for this case.

9                   And again, they eliminated essentially OV --  
10 actually they added OV2 in the new guidelines, which  
11 I'm not even -- I'm not even able to score in this  
12 situation and so they jump from 1 to 2, whereas the new  
13 guidelines actually do 1, and then there's a 2, and  
14 then bodily injury is actually OV3.

15                  MR. GLENN:    Right.

16                  MS. LOZEN:    And so that's why we have to  
17 essentially re-score what the presentence report --  
18 what the presentence division scored, because they were  
19 using the new guidelines and we have to use the old  
20 guidelines.

21                  MR. GLENN:    And even OV3 on the new  
22 guidelines is 10 points, it's not --

23                  THE COURT:    Do I have a copy of the new  
24 guidelines?

25                  MS. LOZEN:    That's what the presentence

1 investigation --

2 MR. GLENN: And OV3 on that one --

3 THE COURT: So OV3 they gave him 10 on that  
4 one.

5 MR. GLENN: Right.

6 THE COURT: And you're saying they should  
7 give him 25?

8 MS. LOZEN: Well I'm saying, Judge, that we  
9 have to scratch off OV3, we can't even use it, because  
10 OV3 did not apply in 1996.

11 So in exchange we have to substitute OV2,  
12 which again, using old judicial guidelines.

13 THE COURT: And give him 25?

14 MS. LOZEN: That's correct.

15 THE COURT: What do you give him for OV3?

16 MS. LOZEN: We can't even score it, it's not  
17 even score-able, just like OV4 is also not score-able.  
18 It's score-able elsewhere in the guidelines.

19 MR. GLENN: And my argument is OV --

20 THE COURT: I think I'm going to give him  
21 the 10. I'm going to give him the 10.

22 MR. GLENN: Thank you.

23 MS. LOZEN: I'll just put on my objection,  
24 Judge.

25 THE COURT: Sure.

1 Okay, OV4? You say we don't do 3 now?  
2 MS. LOZEN: We don't do 3 and we don't do 4.  
3 THE COURT: Okay.  
4 What about 5?  
5 MS. LOZEN: Five, Judge, I have scored at 15  
6 points.  
7 THE COURT: No, they've got it scored at  
8 zero.  
9 MS. LOZEN: Which again when you look at the  
10 new -- or the old definition of OV5, it's victim was  
11 carried away or held captive.  
12 THE COURT: Yeah.  
13 MR. GLENN: I would agree, Judge.  
14 THE COURT: So he doesn't get any points for  
15 that?  
16 MR. GLENN: For OV5 --  
17 THE COURT: He gets 15.  
18 MR. GLENN: -- he gets 15.  
19 THE COURT: Right.  
20 Okay. OV6?  
21 MR. GLENN: Zero.  
22 MS. LOZEN: Zero, Judge.  
23 THE COURT: Seven?  
24 MS. LOZEN: Seven I'm asking for 5 points,  
25 Judge. The victim testified at the trial and at

1 preliminary examination the defendant weighed more than  
2 her and was taller than her.

3 And I'm submitting, Judge, that the offender  
4 exploited the victim through their difference in size  
5 or strength and so again --

6 THE COURT: Well, does he get points for the  
7 weapon?

8 MR. GLENN: Yes.

9 THE COURT: I'll give him the weapon, but  
10 I'm not going to give him --

11 MS. LOZEN: But Judge, he got the weapon in  
12 OV1.

13 MR. GLENN: Right, that's 15 points in OV1,  
14 yeah.

15 MS. LOZEN: But -- and I'm asking you for 5  
16 points on OV7 --

17 THE COURT: No.

18 MS. LOZEN: -- which is -- has to do with  
19 the difference in size or strength or because the  
20 victim was intoxicated, or under the influence of  
21 drugs, asleep, or unconscious.

22 THE COURT: She didn't say she was sleep or  
23 unconscious.

24 MS. LOZEN: No, I mean I'm arguing the  
25 portion that says, size or strength.



1 THE COURT: I know and I said that I'm not  
2 going to give you that.  
3 You're objection is properly noted.  
4 MS. LOZEN: Okay.  
5 THE COURT: Okay, were do we go? OV --  
6 MS. LOZEN: Then we go to OV9.  
7 THE COURT: Okay.  
8 MR. GLENN: There was only one perpetrator  
9 so there's no offender role.  
10 MS. LOZEN: And I agree it should be zero.  
11 THE COURT: Okay, OV10 is not on the new  
12 one, right?  
13 MS. LOZEN: That's -- well, correct, Judge;  
14 10 and 11 are not present, so we cannot score 10 and  
15 11.  
16 THE COURT: Okay.  
17 MS. LOZEN: Now as it relates to OV12.  
18 THE COURT: Yes.  
19 MS. LOZEN: Which is criminal sexual  
20 penetrations.  
21 THE COURT: Right.  
22 MS. LOZEN: The victim testified to two  
23 penetrations --  
24 THE COURT: Okay.  
25 MS. LOZEN: -- fellatio and penis-to-genital

1 opening.

2 THE COURT: Right.

3 MS. LOZEN: And the jury found him guilty of  
4 Count-1, which was the penis-to-genital opening.

5 THE COURT: Right.

6 MS. LOZEN: Now as it relates to the  
7 guidelines, Judge, the standard is a preponderance of  
8 the evidence, not beyond a reasonable doubt.

9 MR. GLENN: He was acquitted of the  
10 fellatio.

11 THE COURT: I'm not going to do that,  
12 Counselor, you're asking me to second-address the jury.

13 MS. LOZEN: Well Judge I'm indicating that  
14 the jury had a beyond a reasonable doubt standard --

15 THE COURT: No.

16 MS. LOZEN: -- and this was preponderance,  
17 so --

18 THE COURT: Your objection is properly  
19 noted.

20 That was 12, right?

21 MS. LOZEN: That's correct. Now we move to  
22 --

23 THE COURT: He got 10 for that, he should  
24 get zero for that.

25 Ok, OV13?

1 MS. LOZEN: Is psychological injury to the  
2 victim --

3 THE COURT: Okay.

4 MS. LOZEN: -- which again I'm asking for 5  
5 points, which is how the judicial guidelines have  
6 indicated to them.

7 THE COURT: I'll give him that.

8 MR. GLENN: No objection.

9 THE COURT: Okay.

10 MS. LOZEN: And then Judge, the final OV is  
11 OV25.

12 THE COURT: On my sheet it's got 14.

13 MS. LOZEN: Well Judge, again --

14 THE COURT: Okay, I see it on there, excuse  
15 me.

16 MS. LOZEN: Yes.

17 THE COURT: Okay, OV25 I've got -- okay.

18 MS. LOZEN: Which I'm arguing for 15 points.  
19 The defendant -- three or more contemporaneous criminal  
20 acts.

21 The contemporaneous criminal acts that I'm  
22 arguing for, Judge, would be the felonious assault,  
23 which the victim testified the defendant pointed the  
24 gun at her; the carjacking, because she said -- again  
25 testified that he moved the car; and then also the

1 armed robbery, indicating that he took items from her.

2 And Judge my argument is that I -- I could  
3 not charge those because they're limited by the statute  
4 of limitations.

5 And again, when you read OV25 indicates that,  
6 has not and will not result in a separate conviction.  
7 And so because I cannot charge him because of the  
8 statute of limitations, they have to be picked up here  
9 in OV25 for contemporaneous criminal acts.

10 These are acts which I cannot charge, but  
11 again the victim testified to all the elements of the  
12 offenses and so that's where they're picked up.

13 MR. GLENN: With respect to the carjacking,  
14 there's no evidence here of whose car that was.  
15 Remember the person that she said was in possession of  
16 the car, he was killed, he was dead, and the car wasn't  
17 recovered. We don't have any idea of whose car that  
18 was.

19 In order to have carjacking, you must be  
20 lawful possession of the car. If he's driving around  
21 in a stolen car and someone takes that car away -- you  
22 have to be in lawful possession --

23 THE COURT: Well let me tell you, I'm not  
24 going to give that one, Ms. Lozen because here's what I  
25 think happened in this case -- and the young lady was

1 pawning it.

2 I sincerely believe, based on the testimony  
3 that you put in, that the -- and I don't want to get  
4 myself in a pickle with the Court of Appeals -- but in  
5 listening to this case, the person who initially had  
6 sexual contact with her conspired with this guy to rape  
7 her. That's what happened. He went in the house and  
8 told this guy that she was out there in the car and he  
9 went out there and raped her. That's what happened, so  
10 there was no carjacking.

11 And I believe that he took the car with the  
12 consent of the other guy --

13 MS. LOZEN: Well then Judge, if you're not  
14 finding the carjacking, there was also the armed  
15 robbery for her jewelry, and also the felonious assault  
16 -- the pointing the gun at her -- which would be two  
17 contemporaneous acts, which would give me 5 points.

18 THE COURT: I'll give you 5 points.

19 MR. GLENN: And my argument with respect to  
20 felonious assault -- use of a weapon was one of the  
21 elements for the CSC1 -- the penetration and the use of  
22 a weapon, so --

23 THE COURT: Why wasn't he charged with  
24 felony firearm in this case?

25 MS. LOZEN: Again, it was barred by the

1 statute of limitation.

2 THE COURT: No, I'm going to allow that.

3 Okay, now what is the bottom line?

4 MR. GLENN: I believe that takes it to 60.

5 THE COURT: Sixty.

6 Total OV?

7 MS. LOZEN: Which again he already -- he'll  
8 max out then, which would be OV-Level 4.

9 THE COURT: Which is what he's in here for  
10 already.

11 MS. LOZEN: And again Judge, then if you  
12 look at the grid and Offense Level-4, and a Prior  
13 Record Level-C, indicates that it will be 180 to 360  
14 months.

15 And then he was charged with Habitual-2nd,  
16 which increases the maximum by 25%.

17 THE COURT: He was charged with what,  
18 Habitual-2nd?

19 MS. LOZEN: That's correct.

20 THE COURT: Okay.

21 MS. LOZEN: And then Judge, the victim at  
22 this time did give me a statement to read. She does  
23 not -- she is present, but does not wish to make a  
24 statement. She asked that I read the statement for  
25 her.

1 THE COURT: Okay.

2 MS. LOZEN: So when you're ready, let me  
3 know.

4 THE COURT: I'm ready.

5 MS. LOZEN: Okay.

6 She just indicated to me that I was left with  
7 an emotional scar that will last a lifetime. I still  
8 have to talk to crisis counselors. I will never forget  
9 what you did to me in the front seat of that car.

10 THE COURT: Go ahead, I'm listening.

11 MS. LOZEN: That's her statement, Judge.

12 THE COURT: Oh, okay.

13 Do you have anything else to say?

14 MS. LOZEN: Judge, I am asking for the top  
15 of the guidelines.

16 I would submit to Your Honor if you look at  
17 his criminal record it indicates that he has had  
18 numerous contacts with the criminal justice system and  
19 numerous convictions, and those convictions in fact  
20 were assaultive and with guns.

21 THE COURT: This only says one felony  
22 conviction.

23 MS. LOZEN: Judge, I'm looking at -- you're  
24 allowed to look -- when you're sentencing him you're  
25 allowed to look at everything.

1                   And also again, due to the People versus  
2 Lockridge case, the sentence only has to be reasonable,  
3 so essentially as always, guidelines are discretionary.  
4 You have to consider them and then find a reasonable  
5 sentence.

6                   And again, that being said, in 1999 I believe  
7 it was, he was convicted of assault with intent to  
8 commit great bodily harm as well as felony firearm,  
9 indicating that he used a weapon or a gun during this  
10 offense.

11                   And then later on he was convicted of intent  
12 to deliver controlled substances, which he I believe,  
13 served a probationary sentence.

14                   And then he was also convicted or possession  
15 with intent to deliver 50-to-499 grams, which again he  
16 served prison time for.

17                   So he served prison time for the GBH and the  
18 felony firearm, as well as the intent to deliver  
19 controlled substances 50-to-499 grams.

20                   And my argument Judge, is that it's  
21 disrespect for the law, it shows he cannot conform his  
22 behavior to the law that civilized society requires.

23                   And even if you were to argue that if he  
24 would have been charged and convicted in 1996, which  
25 the DNA was not available in '96, the science did not



1 develop until later on in life, but he's gotten his  
2 pass already and now it's time to be held accountable  
3 for his actions and that's why I'm asking for the top  
4 of guidelines.

5 I would submit to you that he's had his  
6 chances. He's had multiple chances to essentially keep  
7 his nose clean and he can't do that.

8 And so because of that I'm asking for the top  
9 of the guidelines.

10 MR. GLENN: Again Your Honor, I would ask  
11 The Court for the bottom of the guidelines.

12 You have to look at my client when this  
13 incident allegedly occurred. And to look 20 years  
14 later at someone's life after everything that's  
15 happened and then to penalize him and say, well okay,  
16 20 years ago I'm going to treat you more harsher now  
17 because of what you did 5 years ago for -- had it  
18 happened 20 years ago, that's reverse logic.

19 You have to look at how he was at that point  
20 in time.

21 They're looking at his record. Is there any  
22 kind of sexual assaults that's going on here?

23 This is something that we have the narcotics,  
24 you know, we have, you know, the fighting, but you  
25 don't have any type of sexual contact and so this is

1 way out in you know the premiss.

2 And if I could make an argument is it's out  
3 of character. It's not his character.

4 And so he had plenty of time to show that he  
5 was a sexual assaulter or he was a predator in that  
6 light and that's simply not the case.

7 And so if you're looking at whether it's  
8 happened in the next 20 years, it's showing that no,  
9 he's not a sexual predator, so I would ask for the  
10 bottom of the guidelines.

11 THE COURT: Do you have anything to say?

12 DEFENDANT JEMISON: I'm sorry for what  
13 happened to her, but I still contain (as spoken) my  
14 innocence. I didn't commit that crime.

15 THE COURT: Well the evidence was  
16 overwhelming, Mr. Jemison. I mean they had your DNA  
17 there. How did that get there?

18 DEFENDANT JEMISON: Other people been there.

19 THE COURT: Oh, no.

20 Alright. It's the sentence of This Court  
21 that you be committed to the Michigan Corrections  
22 Commission for a period of not more than 40 years,  
23 which is the maximum setting on a life max sentence,  
24 and you serve a minimum of 22 years.

25 You will be given credit for 170 days.

1                   It's my duty to advise you that you have a  
2 right to appeal this conviction if you so desire. And  
3 if you want to appeal you must fill out the form that's  
4 being furnished to you by the officers of the court and  
5 returned to the court within 42 days, otherwise you  
6 waive your right to appeal.

7                   Good luck to you, sir.

8                   MR. GLENN: Thank you, Your Honor.

9  
10                   (Whereupon the above-entitled cause was  
11 thus concluded at 10:55 A.M.)

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STATE OF MICHIGAN) ) ss  
COUNTY OF WAYNE )

Dated: October 17, 2016

Carolyn Howard, CSMR-4184  
Official Court Reporter

**COA Opinion, April 12, 2018**

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ARTHUR LAROME JEMISON,

Defendant-Appellant.

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UNPUBLISHED

April 12, 2018

No. 334024

Wayne Circuit Court

LC No. 15-010216-01-FC

Before: SAWYER, P.J., and HOEKSTRA and MURRAY, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction first-degree criminal sexual conduct (“CSC-I”), MCL 750.520b (multiple variables). Defendant was sentenced to 22 to 40 years’ imprisonment. We affirm.

I. EXCLUSION OF EVIDENCE

Defendant argues that he was denied the opportunity to present a defense of consent, and denied his right to confrontation, because the trial court chose to exclude evidence that he had a subsequent consensual sexual relationship with the victim. We disagree.

“This Court reviews de novo both constitutional claims and preliminary questions of law regarding admissibility of evidence.” *People v Duenaz*, 306 Mich App 85, 90; 854 NW2d 531 (2014). “Generally, a trial court’s decision whether to admit evidence is reviewed for an abuse of discretion.” *People v Dabb*, 481 Mich 899, 900; 750 NW2d 166 (2008). An abuse of discretion occurs where the trial court chooses an outcome that falls outside the principled range of outcomes. *People v Norfleet*, 317 Mich App 649, 664; 897 NW2d 195 (2016).

This case arises out of the victim’s sexual assault in 1996. At that time, the victim was unable to identify her attacker because she had not been able to see his face on the day that she was sexually assaulted. The victim completed a rape kit after the sexual assault, but the rape kit was not tested until 2015, as a result of efforts to test backlogged rape kits and identify sex offenders through DNA evidence. At trial, it was revealed that defendant and the victim had met each other in 2000, because the victim’s sister shared children with defendant’s brother. The victim did not recognize defendant as her attacker in 2000, and proceeded to engage in a consensual sexual relationship with him. The victim was not aware that defendant was the man

who sexually assaulted her until the results of her rape kit were delivered to the Detroit Police Department in 2015.

At a hearing regarding a motion to exclude evidence filed by the prosecution, the prosecution requested the exclusion of evidence that defendant and the victim engaged in consensual sex in 2000. The prosecution argued that the evidence was prejudicial, and that it was not relevant to the question whether defendant sexually assaulted the victim in 1996. The prosecution further argued that the victim did not know defendant when he sexually assaulted her in 1996:

*The Court:* Then when she saw the single picture [of defendant] she says, “Now I remember that’s him because I had a relationship with him before.”

*Ms. Lozen* [the prosecution]: That’s correct. But again she did not identify him as her rapist. She identified him as a man that she had sex with later on.

I’m saying it’s unfairly prejudicial to her, and that’s what the rape shield is all about is to not—it’s not relevant because who cares if they had sex later on? The fact remains is what happened in 1996.

*The Court:* You mean who cares if they had previous sex.

*Ms. Lozen:* I’m sorry?

*The Court:* You mean who cares if they had previous sex. You said, “if they had sex later on.”

*Ms. Lozen:* Well, Judge—

*The Court:* The sexual encounter—the consensual sex came first, right?

*Ms. Lozen:* No. The consensual sex came later . . . . The assault happened in 1996, and then the consensual sex happened in 2000 . . . . [A]nd [defendant] also acknowledged not knowing [the victim] in 1996.

Michigan’s rape-shield statute provides:

(1) Evidence of specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct shall not be admitted . . . unless and only to the extent that the judge finds that the following proposed evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value:

(a) Evidence of the victim’s past sexual conduct with the actor.

(b) Evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, or disease. [*Duenaz*, 306 Mich App at 91, quoting MCL 750.520j.]

The rape-shield statute “bars, with two narrow exceptions, evidence of all sexual activity by the complainant not incident to the alleged rape.” *Id.* (quotation and citation omitted). The evidence that the prosecution sought to exclude herein concerned “evidence of the victim’s past sexual conduct with the actor.” *Id.*; MCL 750.520j(1)(a). However, the evidence did not constitute “past sexual conduct” in the traditional sense. Generally, “past sexual conduct” would include consensual sex that occurred *prior* to a victim’s sexual assault. Here, the phrase must be applied to consensual sex that occurred *following* the victim’s sexual assault.

In *People v Adair*, 452 Mich 473; 550 NW2d 505 (1996), the Michigan Supreme Court held that the term “past sexual conduct,” as used in the rape-shield law, “refers to conduct that occurred before the evidence is offered at trial,” meaning that consensual sex between a defendant and a victim that happens after the defendant has sexually assaulted the victim is not per se inadmissible. *Id.* at 473, 482-483. However, *Adair* primarily contemplates the use of the rape-shield statute in determining the admissibility of evidence in marital rape cases, where an individual may sexually assault his or her spouse on one day, but then have consensual sex with the spouse following the incident. *Id.* at 486. *Adair* does not stand for the notion that every instance of consensual sex between a defendant and victim are immediately admissible. *Id.* The probative value of the evidence must still be weighed against its potential prejudicial effect. *Id.*

Defendant argues that he was unable to establish the defense of consent because he was not permitted to use the evidence that he had consensual sex with the victim in 2000. However, defendant’s main argument at trial was that he had consensual sex with the victim in 1996. Defendant argues that the evidence that he and the victim engaged in consensual sex in 2000 would have shown that it was more likely than not that the victim knew him in 1996, and thus, that it was more likely than not that she consented to sex in 1996.

Defendant bases his claim on *Adair*, 452 Mich at 453. However, the facts of *Adair* involve marital rape, and thus, *Adair*’s analysis presupposes that the defendant’s identity is known to the victim. Comparatively, defendant’s case is somewhat unusual because the victim’s knowledge of defendant’s identity in 1996 is contested. The victim stated that she did not know defendant in 1996, and the prosecution introduced evidence to support that fact, including her own testimony, and testimony from her sister, who stated that the victim did not meet defendant prior to the year 2000. Additionally, the victim testified that she was unaware of her attacker’s identity until she was shown a picture of defendant in 2015 and realized that she recognized him as her niece’s uncle. The victim did not know defendant was her rapist until police informed her that defendant’s DNA had been matched to the DNA found in her rape kit. Evidence that the victim and defendant had consensual sex in 2000, four years after she was sexually assaulted, does not resolve the question whether she knew defendant in 1996, which is ultimately at issue herein. Without further evidence to establish that the victim knew defendant in 1996, the fact that she and defendant had sex in 2000 is not sufficiently probative to show that she knew his identity in 1996, and by extension, that she could have had consensual sex with him.



In the absence of further supporting evidence that the victim knew defendant's identity in 1996, the probative value of the evidence is outweighed by the danger of unfair prejudice to the victim. The "circumstances and nature of the relationship between the complainant and the defendant" must be taken into careful consideration." *Adair*, 452 Mich at 487. In defendant's case, the circumstances and nature of the relationship between defendant and the victim have not been sufficiently established, and if this evidence had been admitted, any connection that could have been drawn between the two incidents would have been far too prejudicial in nature. The prejudicial nature of such salacious and potentially confusing evidence outweighs its potential probative value.

"[I]nquiries into sex histories, even when minimally relevant, carry a danger of unfairly prejudicing and misleading the jury . . . . [T]he trial court should limit the scope of sexual conduct evidence where constitutionally possible." *Id.* at 480, 487. Given the fact that the chronological sequence of events confused even the trial court, the admission of the evidence may also have prejudiced the victim by causing confusion to the jury. The evidence was not necessary for defendant to argue a consent defense, and it was more prejudicial to the victim than it was probative to defendant. The exclusion of the evidence did not violate defendant's right to confrontation. Accordingly, defendant's claim is without merit.

## II. CONFRONTATION OF WITNESSES

Defendant argues that the trial court violated his right to confront the witnesses against him by allowing an expert witness to testify via two-way interactive video technology over his objection under MCR 6.006(C). We agree, but find that the error was harmless.

"The constitutional question whether defendant was denied [his] constitutional right to confront the witnesses against [him] is reviewed de novo." *People v Benton*, 294 Mich App 191, 195; 817 NW2d 599 (2011). With regard to MCR 6.006, the "[i]nterpretation of a court rule is a question of law that this Court reviews de novo." *People v Lacalamita*, 286 Mich App 467, 472; 780 NW2d 311 (2009) (citation omitted). Additionally, "[b]ecause a trial court may use two-way interactive video technology to take testimony from a person at another location . . . the decision to do so is reviewed for an abuse of discretion." *People v Buie*, 491 Mich 294, 319-320; 817 NW2d 33 (2012) (citation and quotation omitted). "An abuse of discretion occurs when the trial court chooses an outcome falling outside the range of principled outcomes." *Id.* at 320.

The prosecution used Skype, a real-time, two-way interactive videoconferencing service, to allow the expert witness to testify. The expert witness was able to see the courtroom, and the trial judge, the parties, and the jury were able to see the expert witness. On two occasions prior to the expert's testimony, defendant objected to the use of two-way interactive video technology. At a hearing regarding the prosecution's motion in limine to address pretrial issues, defendant stated:

All experts, any expert in a case I'm not going to stipulate to being done by video. There are reports and physical evidence they may have to look at and explain and that simply can't be done via video. So, any type of video conferencing—this is a courtroom, my client has a right to have all of his witnesses appear in court. We

would not stipulate or waive the presence of any witness in court, especially the experts.

Additionally, immediately before the expert witness testified, defendant renewed his objection to the use of video testimony: “The court rule that I’m citing is [MCR] 6.006, video and audio proceedings, and it’s sub[section] C, section two . . . . [T]his has to be done with [defendant’s] consent and . . . I don’t do Skype for expert testimony.”

Defendant argues that this Court must reverse his conviction because his right to confrontation was violated by the trial court’s refusal to follow MCR 6.006(C). The Confrontation Clause consists of four requirements:

- (1) a face-to-face-meeting of the defendant and the witnesses against him at trial;
- (2) the witnesses should be competent to testify and their testimony is to be given under oath or affirmation, thereby impressing upon them the seriousness of the matter; (3) the witnesses are subject to cross-examination; and (4) the trier of fact is afforded the opportunity to observe the witnesses’ demeanor. [*People v Pesquera*, 244 Mich App 305, 309; 625 NW2d 407 (2001) (citation omitted).]

The expert witness testified under oath, and the jury was able to observe him while he testified. Additionally, defendant cross-examined the expert witness via the two-way interactive video feed. The trial court’s adherence to the three major criteria of the Confrontation Clause somewhat undermines defendant’s argument that he was denied the right to confrontation. However, defendant is concerned primarily with the right to confront witnesses face-to-face.

The Confrontation Clause guarantees that the defendant will be permitted the opportunity to examine witnesses in person, but “ ‘the face-to-face confrontation requirement is not absolute.’ ” *Buie*, 491 Mich at 304, quoting *Maryland v Craig*, 497 US 836, 850; 110 S Ct 3157; 111 L Ed 2d 666 (1990). The preference for face-to-face confrontations “ ‘must occasionally give way to considerations of public policy and the necessities of the case.’ ” *Pesquera*, 244 Mich App at 309 (citation omitted). The expert witness was testifying from Salt Lake City, Utah, regarding his findings from the victim’s rape kit. It would have been costly and difficult for the expert witness to appear in person at trial. Thus, if the expert were to testify, two-way interactive video technology was a necessity.

The trial court must make a case-specific finding that it is necessary to dispense with the face-to-face aspect of confrontation. *Id.* at 310. The trial court’s findings herein focused on the fact that it was relatively simple to take testimony from an expert witness via two-way interactive video technology:

[U]sually a lay witness it’s very difficult having a video, but of an expert witness where all emotions are gone, that is admissible.

\* \* \*

Anything that has to be shown to [the expert witness] can be shown to him. They have the different electronic devices [to aid] in passing [the evidence] back and forth.

Although the trial court did not speak at length, it found that allowing the expert witness to testify via Skype would be appropriate because the two-way interactive video feed would allow the expert witness to view and respond to questions and evidence in real time. Thus, although defendant was not able to confront the witness in the traditional sense, the trial court found that allowing the expert witness to testify via Skype was a reasonable substitute, given his inability to attend in person. Defendant was given the opportunity to observe the expert's responses and reactions in real time and took advantage of the opportunity to do so through cross-examination. The jury was able to observe the expert as he responded to questions. Because the testimony met three of the Confrontation Clause criteria, and the trial court appropriately dispensed with the face-to-face requirement, defendant's right to confrontation was not violated.

Defendant next argues that the trial court's decision to overrule his objection violated MCR 6.006(C).

MCR 6.006(C), which governs the use of technology in the courtroom, provides that two-way interactive video technology may only be used with the consent of the parties during trial. MCR 6.006(C); *Buie*, 491 Mich at 318. The definition of "party," as defined in *Buie*, "encompasses both the lawyer and the client . . . . Thus, if either the defendant or counsel objects, the "party" cannot be said to have consented." *Id.* Defense counsel strongly objected to the use of two-way interactive video technology, and cited MCR 6.006(C). MCR 6.006(C) provides:

Defendant in the Courtroom--Other Proceedings: As long as the defendant is either present in the courtroom or has waived the right to be present, upon a showing of good cause, district and circuit courts may use videoconferencing technology to take testimony from a person at another location in the following proceedings:

- (1) evidentiary hearings, competency hearings, sentencings, probation revocation proceedings, and proceedings to revoke a sentence that does not entail an adjudication of guilt, such as youthful trainee status;
- (2) with the consent of the parties, trials. A party who does not consent to the use of videoconferencing technology to take testimony from a person at trial shall not be required to articulate any reason for not consenting. [*Buie*, 491 Mich at 318, quoting MCR 6.006(C).]

"When interpreting a court rule, this Court applies the same rules as when we engage in statutory interpretation . . . . If the language of the court rule is clear and unambiguous, then no further interpretation is required or allowed." *Lacalamita*, 386 Mich App at 314-315. The trial court overruled defendant's objection under MCR 6.006(C), and allowed the expert witness to testify via two-way interactive video technology. Defendant did not consent to the use of two-way interactive video technology at trial, and thus, in accordance with MCR 6.006(C), the trial court abused its discretion by allowing the testimony to be given through two-way interactive video technology over defendant's objection.

However, despite the trial court's abuse of discretion, "an error does not justify disturbing a judgment unless refusal to take this action appears to the court inconsistent with substantial justice." MCR 6.213(A); *People v Jackson*, 487 Mich 783, 801 n 36; 790 NW2d 340 (2010). Errors related to the Confrontation Clause are nonstructural defects. *People v Shepherd*, 472 Mich 343, 347; 697 NW2d 144 (2005). Rather than requiring automatic reversal, Confrontation Clause errors are subject to harmless error analysis. Therefore, "when a trial court commits an error that denies a defendant his constitutional rights under the Confrontation Clause . . . we need not reverse if the error is harmless beyond a reasonable doubt." *People v McPherson*, 263 Mich App 124, 131-132; 687 NW2d 370 (2004). The expert witness was called to testify to a report that merely indicated that he had processed the victim's rape kit and found evidence of male DNA. The expert witness was not responsible for matching the DNA to defendant. The Michigan State Police Crime Laboratory ("MSP Crime Lab") matched the DNA to defendant's entry in the combined DNA index system ("CODIS") database, and the prosecution called an expert witness from the MSP Crime Lab, who testified in person during trial regarding the process that she used to identify defendant using his DNA profile and CODIS. The expert witness at issue herein did not play a substantial role in the identification of defendant, and the trial court's decision to allow him to testify via two-way interactive video technology does not constitute error requiring reversal. Accordingly, defendant's claim must fail.

Affirmed.

/s/ David H. Sawyer  
/s/ Joel P. Hoekstra

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ARTHUR LAROME JEMISON,

Defendant-Appellant.

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UNPUBLISHED

April 12, 2018

No. 334024

Wayne Circuit Court

LC No. 15-010216-01-FC

Before: SAWYER, P.J., and HOEKSTRA and MURRAY, JJ.

MURRAY, J., (*concurring*).

I concur with the majority's resolution of this appeal, but write separately to express my agreement with Chief Justice BRICKLEY's partial dissent in *People v Adair*, 452 Mich 473, 492-494; 550 NW2d 505 (1996), where he recognized that the *Adair* Court's interpretation of "past" within MCL 750.520j(1)(a) rendered that word nugatory:

The majority finds support for its conclusion in the dictionary definition of "past" as " 'having occurred during a time previous to the present.' " Op. at 511, n. 8. However, the dictionary definition of "past" makes it meaningless in the context of the statute. In order for evidence of sexual conduct to be admitted at trial, the conduct must necessarily have occurred during a time previous to the trial. It would be impossible to admit evidence of future sexual conduct. The result reached by the majority could have been obtained had the Legislature worded the exception so as to permit the admission of "evidence of the victim's sexual conduct with the actor" or "evidence of the victim's other sexual conduct with the actor," rather than evidence of "the victim's *past* sexual conduct with the actor." However, as the statute is written, in order to imbue "past" with meaning, this Court should find that only evidence of conduct that occurred before the alleged assault may be admitted.

The majority's construction is not possible under the rule requiring that every word in a statute be given meaning. I conclude that the proffered evidence does not fall within the exception to the rape-shield statute permitting the admission of evidence of past sexual conduct because it deals with sexual conduct that occurred after the incident. [Citation omitted.]

Although the *Adair* Court’s interpretation of “past” may lead to a more practical application of the statute, as Chief Justice BRICKLEY explained, reading “past” to include all sexual acts that occurred prior to the admission of the evidence would include *all* such acts, thus making the Legislature’s use of the limiting word “past” meaningless. We are not permitted to read a word out of a statute. *Yachcik v Yachcik*, 319 Mich App 24, 32; 900 NW2d 113 (2017).

/s/ Christopher M. Murray

**Video Allowed Chart**

# Video Allowed Chart, 899a

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Reason Video Acceptable	State	Reference
Child witnesses with trauma	Alabama	<i>Ex parte Strickland</i> , 550 So 2d 1054 (1989); <i>Hammers v State</i> , 661 So 2d 788 (1994)
	Alaska	<i>Reutter v State</i> , 886 P2d 1298 (Alas App, 2006)
	California	<i>People v Powell</i> , 194 Cal App 4th 1268 (2011); <i>People v Lujan</i> , 211 Cal App 4th 1499 (2012)
	Colorado	<i>People v Phillips</i> , 315 P3d 136 (Colo App, 2012); <i>People v Ujaama</i> , 302 P3d 296 (Colo App, 2012)
	Connecticut	<i>State v Arroyo</i> , 935 A2d 975 (2007); <i>State v Ruiz</i> , 124 Conn App 118 (2010)
	D.C.	<i>Williams v US</i> , 859 A3d 130 (DC, 2004); <i>Ahmed v US</i> , 856 A2d 560 (DC, 2004)
	Florida	<i>Hopkins v State</i> , 632 So 2d 1372 (Fla, 1994); <i>Ritchie v State</i> , 720 So 2d 261 (Fla App, 1998)
	Idaho	<i>State v Baeza</i> , 161 Idaho 39 (2016)
	Illinois	<i>People v Bryant</i> , 391 Ill App 3d 1072 (2009)
	Indiana	<i>Brady v State</i> , 575 NE2d 981 (Ind, 1991)
	Kansas	<i>State v Chisholm</i> , 250 Kan 153 (1992); <i>State v Blanchette</i> , 134 P3d 19 (Kan App, 2006)
	Kentucky	<i>George v Commonwealth</i> , 885 SW2d 939 (Ky, 1994); <i>Greene v Commonwealth</i> , 197 SW3d 76 (Ky, 2006)
	Louisiana	<i>State v Wright</i> , 690 So 2d 850 (La App 3 Cir 2/19/97)
	Minnesota	<i>State v Ross</i> , 451 NW2d 231 (Minn App, 1990)
	Mississippi	<i>Bradley v State</i> , 921 So 2d 385 (Miss App, 2005)
	Missouri	<i>State v Hill</i> , 247 SW3d 34 (Mo App, 2008)
	Montana	<i>State v Stock</i> , 361 Mont 1 (2011)
	New Jersey	<i>State v Smith</i> , 158 NJ 376 (1999)
	New York	<i>People v Beltran</i> , 110 App Div 3d 153 (2013)
	North Carolina	<i>State v Jackson</i> , 216 NC App (2011)
	Oklahoma	<i>Shipman v State</i> 816 P 2d 571 (Okla Crim App, 1991)
	Pennsylvania	<i>Commonwealth v Geiger</i> , 2008 Pa Super 23 (2008)
	Rhode Island	<i>Taylor v Well</i> , 821 A2d 685 (RI, 2003)
	South Carolina	<i>State v Bray</i> , 342 SC 23 (2000)
	Texas	<i>Gonzales v State</i> , 818 SW2d 756 (Tex Crim App, 1991); <i>Walker v State</i> , 461 SW3d 599 (Tex Crim App, 2015);
	Utah	<i>State v Henriod</i> , 131 P3d 232 (Utah, 2006)
	Vermont	<i>In re GT</i> , 156 VT 637 (1991)



# Video Allowed Chart, 900a

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Reason Video Acceptable	State	Reference
Child witnesses with trauma	Virginia	<i>Roadcap v Commonwealth</i> , 50 VA App 732 (2007)
	Washington	<i>State v Foster</i> , 135 Wash 2d 441 (1998)
	West Virginia	<i>State v David K</i> , 238 W Va 33 (2016)
	Wisconsin	<i>State v Vogelsberg</i> , 297 Wis 2d 519 (2006)
	Second Circuit	<i>Spigarolo v Meachum</i> , 934 F 2d 19 (CA 2, 1991)
	Sixth Circuit	<i>United States v Weekley</i> , 130 F 3d 747 (CA 6, 1997); <i>Danner v Motley</i> , 448 F3d 372 (CA 6, 2006); <i>United States v Cox</i> , 871 F3d 479 (CA 6, 2017); <i>United States v Wandahsega</i> , 924 F3d 868 (CA 6, 2019)
	Seventh Circuit	<i>United States v Boyles</i> , 57 F 3d 535 (CA 7, 1995)
	Eighth Circuit	<i>United States v Turning Bear</i> , 357 F3d 730 (CA 8, 2004); <i>United States v Bordeaux</i> , 400 F3d 548 (CA 8, 2005)
	Ninth Circuit	<i>United States v Garcia</i> , 7 F3d 885 (CA 9, 1993); <i>United States v Quintero</i> , 21 F3d 886 (CA 9, 1994)
	Tenth Circuit	<i>United States v Carrier</i> , 9 F3d 867 (CA 10, 1993); <i>United States v Farley</i> , 992 F2d 1122 (CA 10, 1993)
Adult or child witnesses with trauma	Arizona	<i>State ex rel. Montgomery v Kemp</i> , 239 Ariz 332 (App, 2016)
	California	<i>People v Williams</i> , 102 Cal App 4th 995 (2002)
	Florida	<i>Rodgers v Florida</i> , 40 So 3d 888 (2010); <i>Butler v State</i> , 254 So 3d 651 (Fla App, 2018)
Adult witnesses with physical or medical limitations to travel	Illinois	<i>People v Rohlf</i> s, 368 Ill App 3d 540 (2006)
	Indiana	<i>Burns v State</i> , 91 NE3d 635 (Ind, 2018)
	Maryland	<i>White v State</i> , 116 A3d 520 (Md App, 2015)
	Nevada	<i>Lipsitz v State</i> , 442 P3d 138 (Nev, 2019)
	New Jersey	<i>State v Rodriguez</i> , 265 NJ Super 261 (1993)
	North Carolina	<i>State v Seelig</i> , 738 SE2d 427 (NC App, 2013)
	Wyoming	<i>Bush v State</i> , 2008 WY 108 (2008); <i>Kramer v State</i> , 2012 WY 69 (2012)
	Second Circuit	<i>United States v Gigante</i> , 166 F3d 75 (CA 2, 1999)
	Fourth Circuit	<i>United States v Abu Ali</i> , 528 F3d 210 (CA 4, 2008)
	Eleventh Circuit	<i>Harrell v Butterworth</i> , 251 F3d 926 (CA 11, 2001)
Cost considerations	Montana	<i>City of Missoula v Duane</i> , 380 Mont 290 (2015)

Video Not Allowed Chart, 901a

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**Video Not Allowed Chart**

Reason <u>Not</u> Acceptable	State	Reference
<b>Trauma from testifying rather than confrontation</b>	Alaska	<i>Blume v State</i> , 797 P2d 664 (Alas App, 1990)
<b>Busy schedule, conflicts, or other inconveniences, distance, or mere economic considerations</b>	Arizona	<i>State v Moore</i> , 203 Ariz 515 (App, 2002)
	Arkansas	<i>Lewis v State</i> , 2019 Ark App 43 (2019)
	Colorado	<i>Topping v People</i> , 793 P2d 1168 (Colo, 1990)
	Eleventh Circuit	<i>United States v Yates</i> , 438 F3d 1307 (CA 11, 2006)
	Georgia	<i>In Interest of E.T.</i> , 342 Ga App 710 (2017)
	Iowa	<i>State v Rogerson</i> , 855 NW2d 495 (Iowa, 2014)
	Nebraska	<i>In re Interest of S.B.</i> , 263 Neb 175 (2002)
	New Hampshire	<i>State v Peters</i> , 133 NH 791 (1991)
	New Mexico	<i>State v Schwartz</i> , 327 P3d 1108 (NM App, 2014); <i>State v Thomas</i> , 376 P3d 184 (NM, 2016)
	New York	<i>State v Robert F</i> , 25 NY3d 448 (2015)
	South Carolina	<i>State v Bray</i> , 422 SC 439 (App, 2000)
	Sixth Circuit	<i>Brumley v Wingard</i> , 269 F 3d 626 (CA 6, 2001)
	Utah	<i>State v Tribble</i> , 193 VT 194 (2012)
<b>Incarcerated witness</b>	Louisiana	<i>State v Luckey</i> , 212 So 3d 1220 (La App 5 Cir 2/8/17)
	Pennsylvania	<i>Commonwealth v Atkinson</i> , 2009 Pa Super 239 (2009)
	West Virginia	<i>State v Gary F</i> , 189 W Va 523 (1993)
<b>Age or pregnancy alone</b>	New Jersey	<i>State v Benitez</i> , 360 NJ Super 101 (2003)
	Ninth Circuit	<i>United States v Carter</i> , 907 F3d 1199 (2018)
<b>Health concerns of spouse</b>	Wyoming	<i>Bush v State</i> , 2008 WY 108 (2008)